



**ATTORNEY GENERAL OF TEXAS**  
**FINANCIAL AND TAX LITIGATION DIVISION**

**COMPTROLLER OF PUBLIC ACCOUNTS**  
**CASE LIST AND SUMMARY OF ISSUES**

**MAY 2012**



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## Franchise Tax

### ***Allcat Claims Service, L.P. v. Combs, et al.***

Cause Number: D-1-GN-11-002294 AG Case #: 113283048

Filed: 7/29/2011

Franchise Tax; Protest & UDJA

Claim Amount	Reporting Period
\$96,039.00	01/01/2008 through 12/31/2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens, Todd & Leonard / Austin
Seay, Michael B.	
Traphagan, Amanda M.	
Leonard, Lacy L.	

Issue: Whether certain payments made by Plaintiff to subcontractors should be excluded from total revenue. Whether certain payments made by Plaintiff to subcontractors should be included in COGS. Whether the Comptroller's application of §171.1011(g)(3) and §171.1012 violates the Equal Protection clause. Whether imposition of the tax on a limited partnership violates the Bullock Amendment.

Status: Answer filed.

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### ***Apache Corp. vs Compt., et al.***

Cause Number: D-1-GN-07003861 AG Case #: 072481518

Filed: 11/6/2007

Franchise Tax;

Claim Amount	Reporting Period
\$2,121,145.00	1998-1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Langenberg, Ray

Issue: Whether Plaintiff may make an impairment adjustment to its long-lived assets under the successful efforts accounting method and whether it may use a double declining balance method of depreciation.

Status: Answer filed.

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***AROC (Texas), Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000882 AG Case #: 072445745

Filed: 3/23/2007

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$241,435.17	01/01/01 - 12/31/02
\$114,245.78	01/01/01 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Whether debts of the Plaintiff are inter-company debts or equity infusions, causing the debts to be treated as equity and therefore taxable. Plaintiff claims its assets had been collateralized to a third party lender in return for funding.

Status: Discovery in progress.

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***Atlantic Casualty Insurance Co. v. Combs, et al.***

Cause Number: D-1-GN-12-000884 AG Case #: 123323917

Filed: 3/26/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$63,569.00	Report Year 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin

Traphagan, Amanda M.  
Leonard, Lacy L.

Issue: Whether Plaintiff is exempt from the franchise tax as a nonadmitted insurance organization under §171.052(a).

Status: Answer filed.

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***Basic Energy Services, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-003101 AG Case #: 113295083

Filed: 10/6/2011

Franchise Tax; Refund

Claim Amount	Reporting Period
\$1,921,913.94	Report year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Colmenero, David E.	Meadows, Collier, Reed, Cousins, Crouch & Ungerman, LLP / Dallas
Freeman, Jason	

Issue: Whether Plaintiff's election to utilize the compensation deduction disqualifies Plaintiff from filing an amended report for the same year claiming the COGS deduction. Whether detrimental reliance would require the Comptroller to accept a change in Plaintiff's election of deduction.

Status: Hearing on cross-motions for summary judgment, previously set for 07/16/12, has been passed.

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***Bigham Brothers, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-002206 AG Case #: 113283055

Filed: 7/21/2011

Franchise Tax; Protest

Claim Amount	Reporting Period
\$38,946.00	Report years 2008-2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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Opposing Counsel

Martens, James F.                      Martens, Todd & Leonard / Austin  
Traphagan, Amanda M.  
Leonard, Lacy L.

Issue: Whether Plaintiff's election to file an EZ report disqualifies the Plaintiff from subsequently claiming the COGS deduction for the same report year.

Status: Trial set for 08/20/12.

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***CGG Veritas Services (U.S.) Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-001316    AG Case #: 123331670

Filed: 5/2/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$1,483,232.96	Report Year 2008

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald                      OAG Taxation / Austin

Opposing Counsel

Martens, James F.                      Martens, Todd & Leonard / Austin  
Traphagan, Amanda M.  
Leonard, Lacy L.

Issue: Whether the costs incurred in providing seismic data are eligible to be included in COGS.

Status: Answer filed.

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***Chevron Chemical Company, L.L.C., as Successor to Chevron Chemical Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000789    AG Case #: 062297486

Filed: 3/6/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$559,579.09	1994 - 1995

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether the Comptroller correctly applied Plaintiff's business loss carry-forward on earned surplus during years when the earned surplus surtax was computed at zero.

Status: Case placed on Dismissal docket for 03/28/07; Motion to Retain granted 12/23/08.

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***Exxon Mobil Corp. v. Combs, et al.***

Cause Number: D-1-GN-10-004036 AG Case #: 103237442

Filed: 11/16/2010

Franchise Tax; Refund

Claim Amount      Reporting Period

\$16,347,707.00      Report Years 2002 - 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Taylor, III, Jasper G.

Fulbright & Jaworski / Houston

Chadha, Jayash M.

Issue: Whether the taxpayer is entitled to investment tax credits under subchapter Q (now repealed) of Chapter 171. Whether the statute requires a 90-day "look-back" period for qualifying events.

Status: Answer filed.

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***Fairfield Industries, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001289 AG Case #: 093131944

Filed: 4/21/2009

Franchise Tax; Protest

Claim Amount      Reporting Period

\$2,557,040.47      2005-2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Mann, Christopher S.

Jones, Walker, Waechter, Poitevent, Carrere &  
Denegre, L.L.P. / New Orleans, LA

Issue: Whether the Comptroller incorrectly apportioned gross receipts from licensing seismic data.

Status: Answer filed.

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***Fairfield Industries, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-05-003289 AG Case #: 052214558

Filed: 9/13/2005

Franchise Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$1,107,256.04      2002 - 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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White, John D.

Jones, Walker, Waechter, Poitevent, Carrère &  
Denégre, L.L.P. / The Woodlands

Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payor or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise tax apportionment purposes. Plaintiff also requests that penalties be waived and recovery of attorneys' fees.

Status: Order consolidating with Fairfield Industries, Inc. v. Compt., et al., Cause No. D-1-GN-06-000797 entered 07/11/07. Inactive. Pending disposition of TGS-NOPEC case, Cause #D-1-GN-05-00637.

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***Fairfield Industries, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000797 AG Case #: 062296884

Filed: 3/7/2006

Franchise Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$769,839.19      1999 - 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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White, John D.                      Jones, Walker, Waechter, Poitevent, Carrère &  
Denégre, L.L.P. / The Woodlands

Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payor or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise tax apportionment purposes. Plaintiff also requests that penalties be waived and recovery of attorneys' fees.

Status: Case consolidated into Fairfield Industries, Inc. v. Strayhorn, et al., Cause #GN503289.

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***Flint Energy Services, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-000671    AG Case #: 123320228

Filed: 3/7/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$14,496.00	Report Year 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.                      Martens, Todd & Leonard / Austin  
Traphagan, Amanda M.  
Leonard, Lacy L.

Issue: Whether Plaintiff may include travel per diem expenses in its COGs deduction. Whether the travel per diem payments qualify as a direct cost.

Status: Answer filed.

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***Gulf Chemical & Metallurgical Corp. v. Combs***

Cause Number: D-1-GN-11-003174    AG Case #: 113296925

Filed: 10/13/2011

Franchise Tax; Refund

Claim Amount      Reporting Period  
\$1,357,920.00      Report years 2005-2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether a payment/credit from the Plaintiff to Plaintiff's customer should be netted against gross receipts for apportionment purposes.

Status: Trial set for 07/30/12.

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***Gulf Chemical & Metallurgical Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002313    AG Case #: 082518937

Filed: 7/2/2008

Franchise Tax; Protest & Refund

Claim Amount      Reporting Period  
\$262,066.00      2001 through 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether tax credits were properly applied. Whether gross receipts were properly determined for fee/credit transactions. Whether the officer add-back provisions of the franchise tax are unconstitutional. Whether penalty should be waived.

Status: Order granting Motion to Consolidate into Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al, Cause #D-1-GN-06-004636, entered 09/22/09. Agreed Judgment entered 05/25/12.

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***Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004636    AG Case #: 062430582

Filed: 12/15/2006

Franchise Tax; Refund



Claim Amount      Reporting Period  
\$245,571.02      1997 - 2000

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: How should processing fees and metals credit be calculated for franchise tax apportionment purposes. Whether Plaintiff is entitled to a refund resulting from the elimination of the addback for officer and director compensation.

Status: Order granting Motion to Consolidate with Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al, Cause #D-1-GN-08-002313, entered 09/22/09. Hearing on Plaintiff's MSJ held on 12/05/11. Plaintiff's motion denied in part and granted in part. Agreed Judgment entered 05/25/12.

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***Ingersoll-Rand Company v. Combs, et al.***

Cause Number: D-1-GN-11-002010    AG Case #: 113279871

Filed: 7/6/2011

Franchise Tax; Protest

Claim Amount      Reporting Period  
\$2,200,334.00      Report year 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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Fruchtman, David A.                      Horwood Marcus & Berk Chartered / Chicago, IL  
Ruskin, David S.

Langenberg, Ray                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff properly calculated the amount of its temporary credit under Section 171.111.

Status: Discovery in progress.

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***Keystone RV Company Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001284 AG Case #: 113263875

Filed: 4/29/2011

Franchise Tax; Protest & Refund

Claim Amount Reporting Period

\$796,724.00 Report years 2003-2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.

Duggins Wren Mann & Romero, LLP / Austin

Issue: Whether warranty services provided under contract by a third-party are sufficient to establish nexus. Whether warranty services are within the scope of P.L. 86-272. Whether penalty should be waived.

Status: Answer filed.

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***Keystone RV Company, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-00072 AG Case #: 123309668

Filed: 1/12/2012

Franchise Tax; Refund

Claim Amount Reporting Period

\$1,015,945.43 Report Years 2006 & 2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.

Duggins Wren Mann & Romero, LLP / Austin

Issue: Whether warranty services provided under contract by a third-party are sufficient to establish nexus. Whether warranty services are within the scope of P.L. 86-272. Whether penalty should be waived.

Status: Answer filed.

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***Liaison Resources LP v. Combs, et al.***

Cause Number: D-1-GN-12-000624 AG Case #: 123320525

Filed: 3/2/2012

Franchise Tax; Protest

Claim Amount      Reporting Period  
\$96,872.66      Report Years 2008-2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.      OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.      Martens, Todd & Leonard / Austin  
Leonard, Lacy L.

Issue: Whether Plaintiff is entitled to exclude certain receipts from total revenue under §171.1011(k) as a staff leasing services company. Whether Plaintiff must utilize the compensation deduction when calculating its taxable margin.

Status: Discovery in progress.

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***Lone Star Industries, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000065      AG Case #: 103172730

Filed: 1/7/2010

Franchise Tax; Protest & Refund

Claim Amount      Reporting Period  
\$428,568.50      Report years 1999-2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether taxpayer's taxable capital should be based on its historical cost without regard to applicable push-down adjustments.

Status: Discovery in progress.

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***Millennium Inorganic Chemicals, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000655      AG Case #: 062295894

Filed: 2/23/2006

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,862,261.31	1996 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	

Issue: Whether Plaintiff may deduct from its surplus the pre-acquisition negative retained earnings of a subsidiary's subsidiary. Whether Plaintiff may write-down subsidiary's investments in subsidiaries. Whether the Comptroller correctly determined Plaintiff's original cost basis in its subsidiary.

Status: Discovery in progress.

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***Newpark Resources, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-002205 AG Case #: 113280895

Filed: 7/21/2011

Franchise Tax; Protest

Claim Amount	Reporting Period
\$472,872.00	Report year 2008 and Report year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens, Todd & Leonard / Austin
Leonard, Lacy L.	

Issue: Whether certain expenditures attributed to environmental disposal and reclamation services are eligible for the COGS deduction. Whether Plaintiff properly calculated its indirect cost limitation under §171.1012(f). Whether certain payments to subcontractors should be excluded from revenue.

Status: Bench trial held on 05/21-22/12.

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***Nextera Energy Power Marketing, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001372 AG Case #: 123334237

Filed: 5/7/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$1,840,454.22	2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Sigel, Doug	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether certain expenses attributed to the generation and transmission of electricity are eligible for the COGS deduction. Whether Plaintiff properly calculated the amount of its business loss carry forward credit. Whether Plaintiff is entitled to a revenue exclusion for management fee income and interest income.

Status: Answer filed.

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***Nike USA, Inc. v. Combs***

Cause Number: D-1-GN-12-000373 AG Case #: 123316226

Filed: 2/9/2012

Franchise Tax; Refund and APA

Claim Amount	Reporting Period
\$2,456,810.72	Report Years 2004-2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	
Hepworth, Justin	

Issue: Whether certain sales should be apportioned to Texas, if, as alleged by Plaintiff, Plaintiff's customer took delivery outside of Texas. Whether the Comptroller's application of the apportionment statute violates the Commerce, Due Process, and Equal Protection clauses of the U.S. Constitution. Whether Comptroller Rule 3.557 exceeds the scope of the Tax Code.

Status: Answer filed.

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***PEK, Inc. dba Serviceline Transport v. Combs, et al.***

Cause Number: D-1-GN-11-003539 AG Case #: 113301493

Filed: 11/16/2011

Franchise Tax; Protest, Injunctive Relief & Declaratory Judgment

Claim Amount      Reporting Period

\$78,315.81      Report years 2008-2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.

OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.

Martens, Todd & Leonard / Austin

Leonard, Lacy L.

Issue: Whether certain expenses are eligible to be excluded from Plaintiff's revenue as subcontracting payments per §171.011(g)(3).

Whether Plaintiff prospectively qualifies as a courier and logistics company.

Plaintiff also asserts an Equal Protection challenge.

Status: Trial set for 09/24/12.

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***Renewable Energy Systems v. Combs, et al.***

Cause Number: D-1-GN-11-003625 AG Case #: 113303044

Filed: 11/28/2011

Franchise Tax; Refund

Claim Amount      Reporting Period

\$350,574.09      Report year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.

OAG Taxation / Austin

*Opposing Counsel*

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Moore, Steven D.

Jackson Walker, L.L.P / Austin

McCalla, Dudley D.

Issue: Whether Plaintiff is exempt from the franchise tax under §171.056 as being solely engaged in the business of installing solar energy devices.

Status: Discovery in progress.

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***Rent-A-Center, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001059 AG Case #: 113260954

Filed: 4/11/2011

Franchise Tax; Protest

Claim Amount      Reporting Period

\$1,162,191.64      Report year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Butcher, Daniel L.

Strasburger & Price / Dallas

Katz, Farley P.

Strasburger & Price / San Antonio

Issue: Whether Plaintiff's rent-to-own business qualifies for the 0.5% rate under §171.002(b).  
Whether Plaintiff qualifies for the cost of goods sold deduction.

Plaintiff also raises an equal protection clause challenge to: i) the tax rate, and ii) the cost of goods sold deduction.

Status: Discovery in progress.

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***Service King Paint & Body, LLC as Successor to Alamo Body & Paint, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-003039 AG Case #: 113293583

Filed: 9/30/2011

Franchise Tax; Protest

Claim Amount      Reporting Period

\$40,012.00      Report year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.

Martens, Todd & Leonard / Austin

Seay, Michael B.

Leonard, Lacy L.

Issue: Whether Plaintiff qualifies for the 0.5% rate under §171.002(b).

Whether revenue from the sale of installed auto parts should be classified as service revenue.

Status: Answer filed.

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***Shell Trading Services Co. v. Combs, et al.***

Cause Number: D-1-GN-09-003859 AG Case #: 093163046

Filed: 11/9/2009

Franchise Tax; Refund

Claim Amount	Reporting Period
\$1,416,829.00	2002-2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Schmauch, Jason M.	Houston
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Lowy, Peter A.

Masters, Paul H.	Chamberlain, Hrdlicka, White, Williams & Martin / Houston
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Grimsinger, William O.

Vasquez, Jr., Juan

Issue: Whether payments made to certain individuals were payments subject to the officer and director add back provision, notwithstanding taxpayer's contention that it was reimbursed for such salary payments by a third party.

Status: Answer filed.

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***Sunbelt Custom Mineral, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001504 AG Case #: 123334245

Filed: 5/16/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$95,088.00	Report Years 2008 - 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens, Todd & Leonard / Austin
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Traphagan, Amanda M.



Leonard, Lacy L.

Issue: Whether Plaintiff's election to file an EZ Report disqualifies the Plaintiff from subsequently claiming the COGS deduction for the same report year.

Status: Answer filed.

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***Taylor & Hill, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-004429 AG Case #: 113241889

Filed: 12/21/2010

Franchise Tax; Protest

Claim Amount	Reporting Period
\$145,010.00	Report year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens, Todd & Leonard / Austin
Seay, Michael B.	
Traphagan, Amanda M.	

Issue: Whether Plaintiff qualifies for the cost of goods sold deduction. Whether Plaintiff's §171.101(d) election precludes post-audit use of the compensation deduction to calculate margin.

Status: Hearing on Cross-Motions for Summary Judgment held 06/16/11, both motions denied. Trial held 06/28-29/11. Final Judgment for Plaintiff entered 07/20/11.

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***TD Auto Finance, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-000528 AG Case #: 123320517

Filed: 2/22/2012

Franchise Tax; Refund

Claim Amount	Reporting Period
\$381,278.47	Report Years 2006-2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Meisel, Seth E.

Ryan Law Firm, LLP / Austin

Issue: Whether proceeds from the sale of loan finance receivables should be valued on a gross basis or on a net gain basis for the purpose of apportionment.

Status: Discovery in progress.

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***TGS-NOPEC Geophysical Company v. Strayhorn, et al.***

Cause Number: GN500637

AG Case #: 052114220

Filed: 3/1/2005

#03-07-00640-CV

#08-1056

Franchise Tax; Protest

Claim Amount	Reporting Period
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\$390,471.26	1997 - 2000
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\$1,422,008.76	2001 - 2003
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Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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McBride, James T.

Jackson Walker L.L.P. / Houston

Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payer or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise tax apportionment purposes. Plaintiff also seeks attorneys' fees.

Status: Hearing on Cross-Motions for Summary Judgment heard on 07/16/07. Final Summary Judgment signed on 10/15/07. The court granted Summary Judgment to Defendants on the apportionment issue and granted Summary Judgment to Plaintiff on the penalty and interest issue. Defendants'/Cross-Appellants' Notice of Appeal filed 11/15/07. Court Reporter's Record due 12/14/07. Notice of Late Record sent 01/15/08. Clerk's record filed 01/17/08. Appellant TGS and Cross-Appellant Comptroller filed a Joint Motion for Extension of Time to File Briefs 02/04/08; granted 02/07/08. Cross-Appellant's brief filed 04/18/08; Oral Argument requested. Appellant's brief filed 04/21/08; oral argument not requested. Appellee's brief filed 05/22/08; oral argument requested. Cross-Appellee's brief filed 05/20/08; oral argument not requested. Oral Argument denied 05/30/08. Appellants' reply brief filed 06/11/08. Trial court's judgment affirmed on 08/15/08. Appellee's Motion for Rehearing filed 09/02/08. Appellant's Motion for Rehearing filed 10/13/08. Appellants' and Appellees' Motion for Rehearing overruled 11/03/08. Petitioner's Unopposed Motion for Extension of Time to File Petition for Review in the Supreme Court filed and granted 12/17/08. Petition for Review filed 01/21/09. Respondent's Response to Petition for Review waived 02/18/09. The

International Association of Geophysical Contractors submitted an amicus brief in support of TGS on 03/13/09. Response to Petition for Review requested on 03/27/09. Response to Petition filed 05/27/09. Petitioner's Reply filed 06/11/09. Briefing on the merits requested 06/26/09. Petitioner's Brief on The Merits filed 08/26/09. Petitioner's Amended Brief filed 08/27/09. Respondent's Motion for Extension of Time to File Brief filed 10/23/09; granted 10/27/09. Respondent's briefing on the merits filed 11/20/09. Petitioner's reply brief filed 12/14/09. Amicus letter filed 12/31/09. Petition for Review granted 03/12/10. Case submitted on oral argument on 04/15/10. Petitioner's post-submission brief filed 06/09/10. Amicus letter received 08/06/10. Opinion issued 05/27/11, reversing the court of appeals' judgment and remanding the case to the trial court for further proceedings. Mandate issued 07/13/11.

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***Titan Transportation, LP v. Combs, et al.***

Cause Number: D-1-GN-11-002866 AG Case #: 113291926

Filed: 9/15/2011

Franchise Tax; Protest & UDJA

Claim Amount      Reporting Period

\$88,461.00      Report year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.

OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.

Martens, Todd & Leonard / Austin

Seay, Michael B.

Traphagan, Amanda M.

Leonard, Lacy L.

Issue: Whether certain expenses are eligible to be excluded from Plaintiff's revenue as subcontracting payments per §171.1011(g)(3).

Whether Plaintiff's election to file an EZ Report disqualifies Plaintiff from subsequently claiming the COGS deduction for the same report year.

Whether Plaintiff prospectively qualifies as a courier and logistics company.

Status: Hearing on Defendant's MSJ set for 06/26/12. Trial set for 07/16/12.

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***TLH Enterprises, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-002768 AG Case #: 103213674

Filed: 8/6/2010

Franchise Tax; Protest, UDJA, APA

Claim Amount      Reporting Period

\$70,339.50      Report year 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG Taxation / Austin

*Opposing Counsel*

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Skaggs, Jack Ernest Jackson Walker, L.L.P / Austin

Issue: Whether Plaintiff's rent-to-own business qualifies for the 0.5% rate under §171.002(b) and §171.0001(12).

Status: Discovery in progress.

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***TTX Company v. Combs, et al.***

Cause Number: D-1-GN-11-002762 AG Case #: 113288161

Filed: 9/6/2011

Franchise Tax; Protest & UDJA

Claim Amount Reporting Period

\$5,194.89 Report year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG Taxation / Austin

*Opposing Counsel*

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Wahby, Peter S. Greenberg Traurig, LLP / Dallas

Novakov, Daniel P.

Issue: Whether Plaintiff's Notice of Preservation of Temporary Credit was timely submitted.

Status: Answer filed.

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***Tyson Fresh Meats, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-001346 AG Case #: 123334229

Filed: 5/3/2012

Franchise Tax; Refund

Claim Amount Reporting Period

\$929,117.00 Report Years 2002-2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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McEwen, Drew

Ryan Law Firm, LLP / Austin

Ormiston, Matthew

Issue: Whether Plaintiff is entitled to investment tax credits under Subchapter Q (now repealed) of Chapter 171.

Status: Answer filed.

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***Viacom International, Inc. v. Strayhorn, et al.***

Cause Number: GN402433

AG Case #: 041999269

Filed: 7/30/2004

Franchise Tax; Protest

Claim Amount      Reporting Period

\$754,178.16      1997 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether revenue received from third-party cable television system operators is revenue earned from licensing or from the service of producing, creating, editing, packaging and transmitting 24-hour-per-day network programming performed out-of-state. Should revenue from providing these services be considered Texas receipts for franchise tax purposes. Plaintiff also claims violation of Due Process and the Commerce Clause.

Status: Discovery in progress.

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***Winstead, PC v. Combs, et al.***

Cause Number: D-1-GN-12-000141

AG Case #: 123313777

Filed: 1/19/2012

Franchise Tax; Protest, APA

Claim Amount      Reporting Period

\$28,974.15      Report Years 2008 and 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.

OAG Taxation / Austin

*Opposing Counsel*

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Nolan, Peter A.

Winstead PC / Austin

Rabb, Jennifer Patterson

Kana, Anna

Issue: Whether, for purposes of the compensation deduction, certain expenditures are eligible §171.1013(b)(2) employee benefit costs and subject to inclusion in the deduction amount.

Status: Answer filed.

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## Sales Tax

### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: GN403369

AG Case #: 042046367

Filed: 10/8/2004

#03-08-00212-CV

#10-0509

Sales Tax; Refund

Claim Amount	Reporting Period
\$299,328.98	04/01/93 - 09/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether the purchase of bookkeeping software installed on computers located out-of-state and subsequently shipped to stores in-state qualifies for the sale for resale exemption.

Status: Hearing on cross-motions for summary judgment and defendants' plea to the jurisdiction held 02/05/08. Judgment granted for the State on 03/24/08. Plaintiff filed Notice of Appeal 04/07/08. Clerk's Record filed 06/19/08. Appellant's brief filed 07/21/08. Appellees' brief filed 08/20/08. Appellant's Reply Brief filed 09/16/08; accepted for oral argument. Appellant's Motion to Postpone Oral Argument filed 01/12/09. Submission cancelled 01/13/09. Submitted on oral argument on 04/08/09. Opinion issued 08/31/09, reversing the summary judgment in favor of the State, rendering judgment that 7-Eleven is entitled to a partial sales-tax refund with respect to the software that it transferred to its franchise stores, and remanding to the trial court the portion of the cause pertaining to software that was delivered to its out-of-state company stores. The State filed a Motion for Rehearing on 10/06/09 and re-filed its Motion for Rehearing on 11/02/09. Response requested 11/18/09. Appellant's Response to the Motion for Rehearing filed 12/03/09. Substitute Opinion issued 04/22/10, reversing the Court of Appeals' 08/31/09 decision, remanding both issues to the trial court. Appellant's Motion for Rehearing filed 05/07/10; overruled 05/19/10. Petition for Review filed in the Texas Supreme Court on 07/02/10; denied 09/08/10. Mandate issued 10/22/10.

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### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002424

AG Case #: 062380290

Filed: 6/30/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$615,638.45	04/01/93 - 09/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff purchased non-taxable programming services rather than taxable software.

Status: Hearing on Defendant's Motion to Consolidate held and denied on 01/05/11. Hearing on Plaintiff's Motion for Summary Judgment held on 01/19/11. Order denying Plaintiff's MSJ signed 02/08/12.

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***816 Charter, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001013 AG Case #: 123326902

Filed: 4/5/2012

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$966,792.61	01/01/04 through 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Grimsinger, William O.	Chamberlain, Hrdlicka, White, Williams & Martin / Houston
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Issue: Whether Plaintiff's purchase of an aircraft was exempt as a sale for resale.

Status: Answer filed.

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***Agri-Plex Heating & Cooling, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-000545 AG Case #: 123318909

Filed: 2/23/2012

Sales and use Tax; Protest



Claim Amount	Reporting Period
\$53,800.00	04/01/03 - 08/24/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Millican, Paul H.	Gossett, Harrison, Millican & Stipanovic, P.C. / San Angelo
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Issue: Whether Plaintiff is liable for tax as a successor when the assessment was made after Plaintiff purchased business.

Status: Answer, PTJ and Motion to Dismiss filed.

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***Alfred F. Mares v. Combs***

Cause Number: D-1-GN-12-000216 AG Case #: 113293989

Filed: 9/30/2011

Sales and use Tax; Lien challenge; UDJA

Claim Amount	Reporting Period
\$8,000.00	10/01/04 through 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Manriquez, Audrey E.	San Antonio
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Issue: Plaintiff seeks to invalidate a tax lien. Plaintiff also seeks declaratory relief.

Status: Agreed Motion to Transfer Venue filed. Case transferred from Bexar County to Travis County.

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***Allstate Ins. Co. v. Combs, et al.***

Cause Number: D-1-GN-12-001299 AG Case #: 123331209

Filed: 5/3/2012

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$18,954,813.74	01/01/06 through 12/31/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack                      OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray                      Scott, Douglass & McConnico, L.L.P. / Austin  
Sigel, Doug

Issue: Whether outsourced insurance adjusting services qualify as services performed by an employee of a temporary employment service under §151.057(2) and are thus exempt from sales tax.

Status: Case set for non-jury trial on 09/24/12 at 9:00 a.m.

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***Al-Noor Impex Corporation and Azim Bhaiwala v. Gregg Abbott and Susan Combs***

Cause Number: D-1-GN-11-001791    AG Case #: 113272736                      Filed: 6/15/2011

Sales and use Tax; Protest, Injunction & Declaratory Judgment

Claim Amount      Reporting Period  
Aug. 1, 2006 - Jan. 31, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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Tresnicky, John                      Austin

Issue: Whether the audit method used by the Comptroller accurately reflects the business operations of Plaintiff's convenience store.

Whether officers and directors of Plaintiff may be held liable for the assessment.

Whether the prepayment requirements of Tax Code Ch. 112 violate the open courts doctrine.

Status: Answer filed.

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***Anderson Merchandisers, LP v. Combs, et al.***

Cause Number: D-1-GN-11-003390    AG Case #: 113303036                      Filed: 11/3/2011

Sales and use Tax; Refund

Claim Amount      Reporting Period  
\$1,000,000.00      10/01/06 through 09/30/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Osterloh, Curtis J.

Issue: Whether certain transactions are exempt as out of state sales. Whether certain transactions are exempt as temporary storage of TPP.

Status: Agreed Judgment entered 05/14/12.

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***Apache Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-004344    AG Case #: 103170098

Filed: 12/21/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$7,080,790.79	Jan. 1, 1995 through Dec. 31, 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Plaintiff's refund suit raises multiple exemptions to the application of the sales and use tax to its operations. Claims include manufacturing exemptions, sale for resale, and services performed on exempt TPP.

Status: Trial set for 09/13.

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***Apache Corp. vs. Compt., et al.***

Cause Number: D-1-GN-08-001989    AG Case #: 082513300

Filed: 6/6/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$5,894,089.15	1/01/2003 through 06/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether Plaintiff's property qualifies for exemption under various provisions of section 151.318. Whether Plaintiff paid tax on non-taxable services. Whether some property was used for exempt environmental work. Whether sales prices were correctly determined.

Status: Trial set for 09/13.

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***Austin Engineering Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000565 AG Case #: 072440159

Filed: 2/23/2007

#03-10-00323-CV

#12-0273

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$53,654.00      01/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald

OAG Taxation / Austin

*Opposing Counsel*

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Mondrik, Christina A.

Mondrik & Associates / Austin

Issue: Whether fees that Plaintiff received for erosion control services, environmental construction services and utility construction services are exempt from sales and use tax. Whether services performed by Plaintiff to exempt entities are exempt from sales and use tax. Whether Plaintiff's transactions with its customers qualify as non-taxable or exempt services, or included the sale of tangible personal property, thus making certain items taxable. Plaintiff claims the Comptroller erroneously assessed tax on purchases which were non-taxable or exempt, or on which the sales and use tax had already been paid. Plaintiff claims violation of equal protection, equal and uniform taxation, and the Commerce clause.

Status: Cross Motions for Summary Judgment heard on 04/27/10. Final Judgment entered 05/12/10, granting Defendants' Cross-Motion. Plaintiff's Notice of Appeal filed 06/07/10.

Appellant's brief filed 10/04/10. Appellee's Motion for Extension of Time to File Brief filed 10/29/10. Appellee's brief filed 12/16/10. Request for oral argument denied 12/23/10. Appellant's Reply Brief filed 01/05/11. Case submitted on briefs on 06/21/11. Memorandum Opinion issued 08/05/11, affirming that portion of the trial court's order denying Austin Engineering's motion for summary judgment, reversing that portion of the order granting summary judgment in favor of the Comptroller, and remanding for further proceedings. Appellee's Motion for Rehearing filed 09/06/11; denied 03/08/12. Second Motion for Extension of Time to File Petition for Review filed and granted 05/08/12. Petition for Review due 06/22/12.

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***Awad, Mike v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003807 AG Case #: 062419668

Filed: 10/6/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$196,853.60	07/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Roberts, William A.	The Roberts Law Firm / Dallas
Coleman, Kyle	

Issue: Whether Plaintiff's business products are exempt as "sale for resale" items or taxable. Whether the Comptroller erred by misapplying burden of proof and whether the requirement is constitutional. Whether Tax Code §112.108 is constitutional. Plaintiff claims violation of due process, that all penalties and interest be waived, and attorneys' fees.

Status: Jurisdictional plea, motion to dismiss and counterclaim filed.

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***Bell Helicopter Textron, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002279 AG Case #: 082516972

Filed: 6/27/2008

#03-10-00764-CV

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,438,127.83	01/01/01 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to interest on the gross amount of credit in a managed audit. Whether Plaintiff is entitled to the manufacturing exemption for property sold under the applicable FAR's even though the government may not take possession of the manufactured property. Whether Plaintiff's gas and electricity are used in manufacturing.

Status: Court ruled for Comptroller after 08/02/10 trial. Notice of Appeal filed 11/16/10. Appellant's brief filed 02/11/11. Appellee's brief filed 05/27/11. Appellant's Reply Brief filed 07/01/11. Case submitted on oral argument on 11/16/11. Opinion issued 12/29/11, affirming the trial court's judgment. Mandate issued 03/09/12.

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***Bhaiwala Corporation, et al. v. Gregg Abbott and Susan Combs***

Cause Number: D-1-GN-11-001788 AG Case #: 113272520

Filed: 6/15/2011

Sales and use Tax; Protest, Injunction & Declaratory Judgment

Claim Amount      Reporting Period

June 1, 2006 - Oct. 31, 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.

OAG Taxation / Austin

*Opposing Counsel*

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Tresnicky, John

Austin

Issue: Whether the audit method used by the Comptroller accurately reflects the business operations of Plaintiff's convenience store.

Whether officers and directors of Plaintiff may be held liable for the assessment.

Whether the prepayment requirements of Tax Code Ch. 112 violate the open courts doctrine.

Status: Discovery in progress.

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***BHR Texas L.P. v. Combs, et al.***

Cause Number: D-1-GN-09-003056 AG Case #: 093150829

Filed: 9/10/2009

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$19,590.14      05/01/2000 through 07/31/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray                      Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery & similar items provided to hotel guests are exempt from sales tax as sales for resale.

Status: Case abated pending Doubletree DTWC Corp. v. Combs appeal.

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***Big Tex Aviation, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-002015    AG Case #: 113278337

Filed: 7/6/2011

Sales Tax; Protest

Claim Amount      Reporting Period

\$84,375.00      January 1, 2005 through January 31, 2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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Ryan, Kory L.                      Ryan Law Firm, LLP / Austin

Issue: Whether Plaintiff's purchase of an aircraft was exempt under §151.304 as an occasional sale.

Status: Discovery in progress.

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***BJ400XP, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-000888    AG Case #: 123323891

Filed: 3/26/2012

Sales and use Tax; Injunction; UDJA

Claim Amount      Reporting Period

\$805,000.00      04/01/07 - 04/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.                      Martens, Todd & Leonard / Austin  
Traphagan, Amanda M.  
Leonard, Lacy L.

Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption as a sale for resale. Plaintiff also seeks declaratory relief.

Status: Hearing on inability to pay set for 07/17/12.

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***Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN401955                      AG Case #: 041988023                      Filed: 6/21/2004  
#03-09-00617-CV  
#11-0283

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,750,000.00	12/01/88 - 05/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Order consolidating with Cause #D-1-GN-06-000787 signed 05/14/07. Summary Judgment hearing set for 01/22/08. Partial Summary Judgment for Blue Cross granted 02/01/08. Trial held 09/02/08. Evidence reopened. Letter ruling in favor of Blue Cross issued 07/16/09. Judgment for Plaintiff on 07/31/09. Notice of Appeal filed 10/28/09. Reporter's Record filed 11/24/09. Clerk's Record filed 01/05/10. Appellant's brief filed 03/08/10. Appellee's Motion for Extension of Time to File Brief filed 03/24/10; granted 04/01/10. Appellee's brief filed 05/07/10. Appellant's Motion for Extension of Time to File Reply Brief filed and granted 05/20/10. Reply brief filed 06/28/10. Case submitted on oral argument on 09/29/10. Appellee's Post-submission brief filed 10/13/10. Memorandum Opinion issued 03/16/11, affirming the district court's judgment. Petition for Review filed 06/20/11.



Respondent's Response to Petition for Review waived 06/21/11. Court requested response 07/29/11. Response filed 08/23/11. Petitioner's Reply filed 09/02/11. Amicus Curiae letter filed 01/20/12. Response to Amicus Curiae brief filed by Respondent on 01/26/12. Brief on the Merits requested on 02/17/12. Petitioner's Motion to Consolidate filed 02/28/12. Petitioner's Motion for Extension of Time to File Brief filed 03/06/12; granted 03/09/12. Petitioner's Brief filed 04/18/12. Respondent's brief filed 05/08/12. Petitioner's Motion for Extension of Time to File Reply Brief filed 05/14/12; granted 05/17/12. Reply brief due 06/22/12.

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***Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000787 AG Case #: 062296876

Filed: 3/6/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,029,344.00	06/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Order consolidating into Cause # GN401955 signed 05/14/07.

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***Boeing North America, Inc. v. Strayhorn, et al.***

Cause Number: GN304372

AG Case #: 031884471

Filed: 11/10/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$500,000.00	01/01/95 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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***BP America, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000049 AG Case #: 103172706

Filed: 1/6/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,684,875.00	07/01/00 through 12/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff brings approximately twenty-five different sales and use tax refund issues in connection with its production and refining operations. Claims include waste removal, environmental services, credit interest, and various manufacturing exemption claims.

Status: Answer filed.

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***Broadwing Corporation v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003733 AG Case #: 062412879

Filed: 9/29/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$217,355.92	01/01/99 - 04/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Osterloh, Curtis J.

Issue: Whether finish-out work or improvements to real property is subject to tax when a part of the structure and leased space had been previously used and occupied.

Status: Discovery in progress.

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***BTA Oil Producers, LLC v. Combs, et al.***

Cause Number: D-1-GN-11-003640 AG Case #: 113303093

Filed: 11/28/2011

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$1,028,989.00      01/01/04 - 12/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Ryan, Kory L.

Ryan Law Firm, LLP / Austin

McEwen, Drew

Issue: Plaintiff's refund claim raises multiple exemptions to the application of the sales and use tax to its operations. Exemptions asserted include: manufacturing exemption; environmental & conservation services; third-party installation; and services performed on exempt items.

Status: Answer filed.

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***Budget Prepay, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001189 AG Case #: 113263867

Filed: 4/21/2011

Sales Tax; Refund

Claim Amount      Reporting Period

\$83,476.82      11/01/04 through 02/29/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.

OAG Taxation / Austin

*Opposing Counsel*

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Seidel, Scott M.

Gulotta, Anthony C.                      AG Tax Law, P.C. / Harrisburg, PA

Issue: Whether the "prompt payment discount" which Plaintiff provides to its customers constitutes a discount from the sales price.

Status: Answer filed.

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***Burns, Kevin D. v. Strayhorn, et al.***

Cause Number: GN504208                      AG Case #: 052253457                      Filed: 11/28/2005

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,300,000.00	01/01/96 - 10/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.                      Attorney at Law / Austin

Issue: Whether the transfer of certain tangible personal property from customers to Plaintiff to be leased back to customers with a purchase option are non-taxable financing transactions. Whether sales taxes previously submitted are binding within Plaintiff's bankruptcy plan. Plaintiff claims violation of equal and uniform taxation, and also seeks attorneys' fees.

Status: Case dismissed for want of prosecution on 05/23/12.

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***C & T Stone Company v. Rylander, et al.***

Cause Number: GN002428                      AG Case #: 001344233                      Filed: 8/18/2000

Sales Tax; Protest

Claim Amount	Reporting Period
\$207,454.40	04/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Peckham, William T.

Attorney at Law / Austin

Issue: Whether Plaintiff owes sales tax on its sales of limestone to third parties under §151.311(a). Whether Plaintiff detrimentally relied on advice from the Comptroller's Office. Whether exemption certificates covered some sales that were assessed tax. Whether Plaintiff is entitled to the manufacturing exemption under §151.318(g). Whether penalty and interest should be waived.

Status: Case dismissed for want of prosecution on 05/31/12.

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***C.C. Carlton Industries, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-08-003460 AG Case #: 082530270

Filed: 9/22/2008

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$247,570.73      01/01/00 through 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Holcomb, Donald W.

Knolle, Holcomb, Kothmann & Callahan / Austin

Issue: Whether Plaintiff owes tax on construction and electrical work.

Status: Trial previously set for 06/25/12 has been passed.

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***Captain Hook-Austin, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-000544 AG Case #: 113250096

Filed: 2/22/2011

Sales and use Tax; APA

Claim Amount      Reporting Period

\$84,000.00      01/01/05-12/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Bigelow, Bruce

Blazier, Christensen, Bigelow & Virr, P.C. / Austin

Issue: Whether certain waste removal services were associated with new construction and not

subject to the sales tax.

Status: Answer filed.

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***Carino's Italian Kitchen, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000524 AG Case #: 103179644

Filed: 2/18/2010

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$97,924.98      07/01/02 through 03/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether certain cleaning supplies used in food processing areas qualify for the manufacturing exemption. Whether the Comptroller used the proper calculation method for interest applied to overpayments.

Status: Nonsuit Order entered 04/16/12.

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***CEC Entertainment, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004594 AG Case #: 062430368

Filed: 12/12/2006

Sales Tax; Refund

Claim Amount      Reporting Period

\$244,808.38      01/01/02 - 09/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom      Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff claims that paying sales tax on prizes awarded to successful contestants of coin-operated and non-coin operated games and on the admission price of non-coin operated games, in addition to annual occupational taxes, would be double taxation. Plaintiff claims violation of

equal and uniform taxation, and due process.

Status: Inactive.

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***Centreport Partners, L.P. v. Combs, et al.***

Cause Number: D-1-GN-07-000152 AG Case #: 072435795

Filed: 1/19/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$14,095.15	07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Court sent Notice of DWOP on 08/21/09. Plaintiff's Motion to Retain filed 08/19/09; granted 09/23/09. Case abated pending Doubletree DTWC Corp. v. Combs appeal.

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***Chapal Zenray, Inc. v. Combs, et al.***

Cause Number: GN204506

AG Case #: 031729197

Filed: 12/16/2002

#03-10-00646-CV

#12-0175

Sales Tax; Protest

Claim Amount	Reporting Period
\$210,943.91	01/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Osterloh, Curtis J.	

Issue: Whether items such as boxes, foam pads and twist ties are not subject to tax pursuant to

Tex. Tax Code §151.011 (f)(2) and Rule 3.346 (c)(1)(c) when purchased by a person who uses the items to secure jewelry for shipment out-of-state.

Status: Plaintiff's Motion for Partial Summary Judgment granted. Final Judgment for Plaintiffs entered 08/18/10. The State filed its Notice of Appeal on 09/17/10. Appellant's brief filed 01/31/11. Appellee's Motion for Extension of Time to File Brief filed 02/16/11; granted 02/22/11. Appellee's brief filed 04/01/11; oral argument requested. Oral argument denied 04/06/11. Reply brief filed 04/20/11. Appellee's Supplemental Brief filed 05/24/11. Case submitted on briefs on 08/11/11. Appellee's Motion for Rehearing filed 01/05/12. Petition for Review filed in the Tx. Supreme Court on 03/01/12. Petition for Review filed in the Tx. Supreme Court on 03/01/12. Response filed 06/01/12.

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***Church & Dwight Company, Inc. v. Rylander, et al.***

Cause Number: GN000525

AG Case #: 001258201

Filed: 1/12/2000

Sales Tax; Refund

Claim Amount	Reporting Period
\$64,868.50	10/01/90 - 12/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Benesh, W. Stephen	Bracewell & Patterson / Austin
Sampson, Jr., Phillip L.	

Issue: Whether Plaintiff owes use tax on promotional materials shipped from out-of-state. Whether the Comptroller's imposition of use tax is invalid because Plaintiff made no use of the materials in Texas. Whether Rule 3.346(b)(3)(A) is invalid. Whether the tax violates the Commerce and Due Process Clauses of the United States Constitution.

Status: Case dismissed for want of prosecution 06/15/05. Case re-opened. Reinstated by bill of review 11/22/05.

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***Cirrus Exploration Company v. Combs, et al.***

Cause Number: D-1-GN-11-001851

AG Case #: 113273395

Filed: 6/21/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
	01/01/06 - 06/30/06



Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray                              Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether Plaintiff qualifies as a licensed and certificated carrier under Tex. Tax Code §151.328(a).

Status: Discovery in progress.

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***City of Dickinson v. Combs***

Cause Number: D-1-GV-12-000094    AG Case #: 123314528

Filed: 1/27/2012

Sales and use Tax; UDJA & Injunctive Relief

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                              OAG Taxation / Austin

*Opposing Counsel*

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Smith, Loren B.                              Olson & Olson, LLP / Houston

Issue: Plaintiff seeks declaration relating to tax situs for local sales tax on certain transactions. Plaintiff also seeks injunctive relief.

Status: TRO hearing set for 04/10/12 was cancelled.

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***City of Webster and the Webster Economic Development Corporation v. Strayhorn***

Cause Number: D-1-GV-06-001823    AG Case #: 062409446

Filed: 9/15/2006

#03-08-00291-CV

#10-0416

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$502,620.70	05/01/02 - 01/31/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                              OAG Taxation / Austin

## *Opposing Counsel*

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Feldman, David M.  
Cowan, Robert W.

Feldman & Rogers, L.L.P. / Houston

Gregg, Jr., Dick H.

Gregg & Gregg, P.C. / Houston

Issue: Whether the Comptroller's reallocation of local sales taxes based on the filing of amended tax returns violates the procedural and substantive due course of law provisions of the Texas Constitution and constitutes a taking. Whether the Comptroller's interpretation of Tax Code §321.002(a)(3) is constitutional. Whether Plaintiffs and Intervenors have standing to challenge the Comptroller's interpretation of sec. 321.002 of the Tax Code under the Texas Constitution, UDJA, and APA. Whether sovereign immunity bars Plaintiffs' & Intervenors' suit. Plaintiffs also request attorneys' fees.

Status: Discovery in progress. Defendant's Plea to the Jurisdiction filed 02/14/07. Original Plea in Intervention & Third Party Petition filed 04/18/07 by cities of Denton, Humble, Lewisville, Mesquite, North Richland Hills, and Plano, and Denton County Transportation Authority and Fort Worth Transportation Authority. Original Answer filed by City of Grand Prairie, third party defendant, on 05/29/07. First Amended Plea in Intervention filed on 06/12/07, adding the City of Waco as a party. Second Amended Plea in Intervention And Third-Party Petition filed 09/28/07. Hearing on Defendant's First Amended Plea to the Jurisdiction 02/07/08 at 9:00 a.m. Letter Ruling issued on 03/26/08, denying Defendant's First Amended Plea to the Jurisdiction and First Supplemental Plea to the Jurisdiction; Proposed Order submitted to court on 04/09/08 by Counsel for Intervenors. 04/11/08 Order denying Comptroller's 1st Amended & 1st Supplemental Pleas to the Jurisdiction signed by the court. Notice of Appeal filed 05/01/08. Hearing on Intervenors' Motion to Compel 06/11/08. Court ordered that commencement of trial, and all other proceedings in the trial court, including discovery, are automatically stayed pending resolution of the Comptroller's interlocutory appeal on 06/17/08. Appellant's brief filed 07/11/08. Appellee's brief filed 08/18/08. Appellant's Reply Brief filed 09/15/08. Submitted on oral argument on 06/10/09. Supplemental brief received from Appellee on 06/19/09. Response due 06/29/09. Appellee's Motion for Leave filed 06/29/09; granted 07/02/09. Opinion issued 10/02/09, affirming the trial court's denial of the plea to the jurisdiction as to the UDJA claim on the issue of whether the comptroller acted outside her authority regarding the determination of where specific sales were consummated, but reversed the trial court and dismissed the other UDJA claims, constitutional claims and APA claims and dismissed those claims for lack of subject matter jurisdiction. Supplemental Clerk's Record filed 10/15/09. Appellee's Motion for Rehearing filed 10/20/09; denied 04/16/10. Denton's Petition for Review filed in the Texas Supreme Court on 06/01/10. Webster's Petition for Review filed 06/03/10. State's Response filed 06/22/10. State's Cross-Petition for Review filed 06/30/10. Webster's Reply filed 07/07/10. Denton's Reply filed 07/09/10. Response to the State's Cross-Petition waived by Webster on 07/15/10, and by Denton on 07/16/10. Petitions for Review denied 08/20/10. Mandate issued by Court of Appeals on 10/22/10. Intervenors (Denton, et al.) filed Notice of Non-Suit on 10/29/10.

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***Coca-Cola Company, The v. Strayhorn, et al.***

Cause Number: GN504213

AG Case #: 052253473

Filed: 11/28/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,060,883.03	07/01/97 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Hagenswold, R. Eric	
Osterloh, Curtis J.	

Issue: Whether replacement parts and the repair of fountain drink machines leased to customers by Plaintiff are exempt from sales tax as manufacturing equipment and the sale for resale exemption.

Status: Scheduling order filed 01/09/09.

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***Continental Airlines, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-001751

AG Case #: 103200416

Filed: 5/28/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,919,943.00	11/01/1998 to 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether the Comptroller properly applied the statute of limitations to specific transactions based on the invoice date rather than an accrual date. Whether the Comptroller properly excluded a transaction from an audit sample based on the invoice date. Whether Plaintiff's purchase of TPP and building maintenance services, used or consumed at a leased facility, qualify for the sale for resale exemption. Whether Plaintiff's purchase of equipment and consumable supplies qualify for exemption

under 151.328(d) (aircraft maintenance) and 151.328(e), respectively.

Status: Discovery in progress.

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***Cosmair, Inc. v. Strayhorn, et al.***

Cause Number: GN302009

AG Case #: 031816135

Filed: 6/9/2003

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$1,322,536.67      07/01/96 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether Plaintiff owes use tax on items transferred free of charge that are subsequently brought into Texas. Plaintiff specifically challenges whether: 1) “use” includes distribution; 2) use was only out-of-state where control transferred; 3) longstanding policy may be changed; 4) Rule 3.346 does not support tax on promotional materials; 5) use tax applies without title or possession; 6) no consideration for transfer; 7) Rule 3.346(b)(3)(A) is invalid; 8) tax is bared by Commerce, Due Process and Equal Protection Clauses; and 9) resale exemption applies. Plaintiff also seeks attorneys’ fees.

Status: Agreed Motion to Retain filed 04/23/07; granted 08/14/07.

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***Courthouse Direct.com v. Combs, et al.***

Cause Number: D-1-GN-11-001252    AG Case #: 113268445

Filed: 4/27/2011

Sales and use Tax; Refund and Protest; UDJA

Claim Amount      Reporting Period

\$77,604.00      (plus interest & penalties) 12/01/98 thru 05/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald

OAG Taxation / Austin

*Opposing Counsel*

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Hopkins, Mark D.

Hopkins & Williams, PLLC / Austin

Roberts, William A.

The Roberts Law Firm / Dallas

Issue: Whether services provided by Plaintiffs including title search services, constitute information services or should be exempt as "landman" services under §151.0048(b-1).

Status: Discovery in progress. Plea to the Jurisdiction filed 10/27/11.

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***Day Cruises Maritime, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-063567

AG Case #: 062410139

Filed: 9/21/2006

Sales Tax; Protest

Claim Amount      Reporting Period

\$243,910.85      12/01/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Beam, Patrick L.

Attorney at Law / Aransas Pass

Issue: Whether Plaintiff's charter of a vessel is leased property subject to sales and use tax. Whether the vessel was used or received within the state. Plaintiff claims that the Comptroller does not have legal authority to collect the assessed tax.

Status: Answer filed.

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***Day Cruises Maritime, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004734      AG Case #: 072432578

Filed: 12/27/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period

\$243,910.85      12/01/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Beam, Patrick L.

Attorney at Law / Aransas Pass

Issue: Plaintiff filed suit 09/21/06 under protest questioning the assessed tax based on whether Plaintiff's charter of a vessel is leased property subject to sales and use tax, and whether the

vessel was used or received within the State. Plaintiff now seeks judgment that the tax in question is unconstitutional and may not be legally demanded or collected by the Comptroller. Plaintiff requests jury trial.

Status: Jury trial previously set for 03/09/12 has been passed.

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***Del Monte Fresh Produce (Texas), Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002414 AG Case #: 093142628

Filed: 7/28/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$1,877,825.91	01/01/2000 through 07/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Ohlenforst, Cynthia M.	Hughes & Luce / Dallas
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Issue: Whether Del Monte qualifies for the manufacturing exemption on equipment, parts, packaging and electricity used in its operations with raw potatoes and tomatoes.

Status: Answer filed.

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***Dish Purchasing Corp. v. Combs, et al.***

Cause Number: D-1-GN-12-000172 AG Case #: 123313769

Filed: 1/23/2012

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$11,333.20	04/01/08 through 11/30/10

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Ryan, Kory L.	Ryan Law Firm, LLP / Austin
McEwen, Drew	

Issue: Whether certain wrapping and packaging materials are exempt under §151.318(d). Whether certain wrapping and packaging materials were purchased for resale.

Status: Answer filed.

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***Doubletree DTWC Corp. v. Combs, et al. (Formerly Embassy Equity Development Corporation, et al. v. Strayhorn, et al.)***

Cause Number: D-1-GN-06-004267 AG Case #: 062425566  
#03-10-00801-CV

Filed: 11/9/2006

**Sales Tax; Refund**

Claim Amount	Reporting Period
\$11,487.10	01/01/96 - 12/31/98
	06/01/97 - 05/31/01
\$10,494.52	01/01/95 - 12/31/98
\$17,485.53	12/01/98 - 03/31/02
\$2,615.82	01/01/98 - 12/31/00
\$4,190.26	09/01/94 - 06/30/97
\$1,658.68	09/01/94 - 05/31/98
\$2,894.76	09/01/94 - 03/31/98
\$4,044.05	07/01/95 - 12/31/98
	01/01/99 - 05/31/02
\$1,440.73	09/01/94 - 08/31/98

**Counsel Associated With This Case:**

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Hearing on Cross-Motions for Summary Judgment held 08/18/10. Case consolidated with Centreport Partners, L.P. v. Combs, et al., Cause #D-1-GN-07-000152. Court ruled for the Comptroller on 08/24/10. Plaintiff's Amended Notice of Appeal filed 12/03/10.

Appellant's brief filed 02/15/11; oral argument requested. Appellee's brief filed 05/03/11.

Appellant's Motion to Withdraw Attorney filed 05/04/11; granted 05/11/11. Appellant's Reply Brief filed 06/06/11. Case submitted on oral argument on 09/28/11. Additional authorities filed by Appellee on 09/30/11. Appellant's Motion filed 10/06/11; granted 10/10/11. Letter brief filed by Appellant 10/10/11.

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***DSC Enterprises, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-003112 AG Case #: 103218558

Filed: 9/2/2010

Sales and use Tax; Protest & Refund

Claim Amount	Reporting Period
\$52,189.00	02/01/02 through 08/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Rosenblatt, James David	San Antonio
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Issue: Plaintiff challenges methodology of a sales and use tax audit. Plaintiff also seeks a waiver of assessed penalty and interest.

Status: Discovery in progress.

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***DSW Shoe Warehouse, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-000233 AG Case #: 123314759

Filed: 1/30/2012

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$570,222.00	07/01/05 through 09/30/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F. Leonard, Lacy L.	Martens, Todd & Leonard / Austin
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Issue: Plaintiff challenges sampling methodology applied in a sales tax audit.

Status: Answer filed.

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***EFW, Inc. v. Rylander, et al.***

Cause Number: GN200906

AG Case #: 021579578

Filed: 3/19/2002

Sales Tax; Refund & Declaratory Judgment



Claim Amount	Reporting Period
\$123,440.25	04/01/94 - 03/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	
Osterloh, Curtis J.	

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***EFW, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000058 AG Case #: 062269022

Filed: 1/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$600,000.00	04/01/98 - 08/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	
Osterloh, Curtis J.	

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***Energy Education of Montana, Inc. v. Combs***

Cause Number: D-1-GN-09-001249 AG Case #: 093120491  
#03-10-00644-CV

Filed: 4/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$890,601.19	06/06/03 to 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Sequist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Rogers, Harold D.	Wichita Falls
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Johnson III, Robert F.	Gardere Wynne & Sewell / Dallas
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Issue: Whether Plaintiff's purchase of an aircraft is non-taxable when the aircraft is delivered out of state and registered there.

Status: Cross-Motions for Summary Judgment heard on 05/12/10. Letter ruling granting Comptroller's MSJ and denying Plaintiff's MSJ entered 06/10/10. Final Order signed 08/19/10. Notice of Appeal filed 09/17/10. Appellant's Brief filed 01/21/11; oral argument requested. Appellee's brief filed 03/29/11. Oral argument denied 04/06/11. Appellant's Reply Brief filed 04/18/11.

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***Energy Education of Montana, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002728 AG Case #: 093146496  
#03-10-00644-CV

Filed: 8/20/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$154,800.33	06/01/2003 through 06/30/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Sequist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Johnson III, Robert F.	Gardere Wynne & Sewell / Dallas
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Issue: Whether Plaintiff's purchase of an aircraft is non-taxable when the aircraft is delivered

out of state and registered there.

Status: Abated pending resolution of Energy Education of Montana, Inc. v. Combs, Cause #D-1-GN-09-001249.

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***ExxonMobil Oil Corporation v. Combs, et al.***

Cause Number: D-1-GN-11-002257 AG Case #: 113280598

Filed: 7/26/2011

Sales and use Tax; Protest & Refund

Claim Amount	Reporting Period
\$2,089,796.31	01/01/1996 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Whether the addition of emission control equipment to an existing refinery constitutes new construction.

Status: Discovery in progress.

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***F M Express Food Mart, Inc., and Fouad Hanna Mekdessi v. Rylander, et al.***

Cause Number: GN002724

AG Case #: 001353960

Filed: 9/15/2000

#03-12-00144-CV

Sales Tax; Injunction

Claim Amount	Reporting Period
\$360,671.05	12/01/90 - 11/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Isgitt, Percy L. "Wayne"	Law Offices of Percy L. "Wayne" Isgitt, P.C. / Houston
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Issue: Whether Comptroller's "estimated audit" is invalid. Whether Plaintiffs are entitled to an injunction of collection and of cancellation of their sales tax permits. Whether Tax Code §§112.051, 112.052, 112.101 and 112.108 are unconstitutional violations of the open courts

provision. Plaintiffs seek a re-audit and a refund of money paid under protest in excess of the re-audited amount.

Status: Plaintiffs' Amended Motion for Partial Summary Judgment filed 07/15/11.  
Defendants' Response to Plaintiffs' Amended Motion for Partial Summary Judgment filed 08/15/11. Plaintiffs' Objections to Defendants' Evidence in Support of Their Amended Motion for Summary Judgment filed 08/15/11. Plaintiff's Amended Motion for Partial Summary Judgment and Defendants' First Amended Cross-MSJ heard 09/29/11. Defendants' First Motion for Summary Judgment granted 10/03/11. Defendants' 2nd MSJ granted 02/14/12. Notice of Appeal filed 03/13/12. Amended Notice of Appeal filed 05/14/12. Appellant's brief due 07/13/12.

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***Fair Isaac Corp. v. Combs, et al.***

Cause Number: D-1-GN-11-003553 AG Case #: 113302715

Filed: 11/15/2011

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$257,528.90	11/01/03 through 06/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.	OAG Taxation / Austin
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*Opposing Counsel*

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Ryan, Kory L.	Ryan Law Firm, LLP / Austin
Meisel, Seth E.	
Oldham, Kevin	

Issue: Whether certain computer programming services qualify as custom software.

Status: Discovery in progress.

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***Fencecrete America Manufacturing, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-003690 AG Case #: 113305163

Filed: 12/2/2011

Sales and use Tax; Refund & UDJA

Claim Amount	Reporting Period
\$135,638.50	07/01/00 - 11/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Blume, James D. BLUME, FAULKNER, SKEEN & NORTHAM,  
PLLC / Richardson

Issue: Whether Plaintiff was entitled to a credit for tax remitted on the purchase of materials for certain contracts.

Status: Answer filed.

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***First Class Enterprises, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001271 AG Case #: 093120772

Filed: 4/17/2009

Sales and use Tax; Declaratory Judgment & Injunction

Claim Amount Reporting Period

\$150,000.00 10/01/00 through 04/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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Fowler, Gerald Fife Houston

Issue: Whether Plaintiff is liable for tax as successor when assessment was made after Plaintiff bought business.

Status: Answer filed.

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***Florida Management, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-004244 AG Case #: 083091280

Filed: 11/21/2008

Sales and use Tax; Protest

Claim Amount Reporting Period

\$85,965.30 Oct. 1, 2001 - Dec. 31, 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG Taxation / Austin

*Opposing Counsel*

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Stratton, C. Mark	Austin
Lyon, Ted B.	Mesquite

Issue: Whether Plaintiff is a "retailer" or "seller" for the sales tax. Whether sale of an airplane in connection with an unpaid loan is a taxable transaction.

Status: Defendants' MSJ granted 03/08/12.

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***GEO Group, Inc., The v. Combs, et al.***

Cause Number: D-1-GN-09-002855 AG Case #: 093146850

Filed: 8/28/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$1,367,377.14	05/01/2001 through 04/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Hagenswold, R. Eric	

Issue: Whether electricity and natural gas consumed by a correctional facility is subject to the residential use exemption under §151.317(c).

Status: Hearing on Plaintiff's MSJ previously set for 04/25/12 has been passed.

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***Gift Box Corporation of America, Inc. v. Rylander, et al.***

Cause Number: GN102934

AG Case #: 011492865

Filed: 9/5/2001

Sales Tax; Protest

Claim Amount	Reporting Period
\$359,929.22	10/1991 - 03/1997

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Lipstet, Ira A.	DuBois Bryant Campbell & Schwartz, L.L.P. / Austin
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Issue: Whether additional resale certificates should have been accepted for Plaintiff's sales of boxes and packaging materials.

Status: Defendants' Motion to Dismiss filed 02/08/12.

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***Glazier Foods Co. v. Combs, et al.***

Cause Number: D-1-GN-09-002137 AG Case #: 093136810

Filed: 7/2/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$148,709.00	02/01/1999 through 03/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Plaintiff claims an exemption for electricity used in its food business.

Status: Case dismissed for want of prosecution on 08/31/11, reinstated 05/03/12.

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***Glazier Foods Co. v. Combs, et al.***

Cause Number: D-1-GN-12-000516 AG Case #: 123320327

Filed: 2/21/2012

Sales and use Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate dismissal, for want of prosecution, of D-1-GN-09-002137.

Status: D-1-GN-09-002137 reinstated 05/03/12.

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***Grocers Supply Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001804 AG Case #: 093131431

Filed: 6/6/2009

Sales and use Tax; Protest

Claim Amount      Reporting Period  
\$208,304.00      11/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.              Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Case dismissed for want of prosecution on 08/31/11, reinstated 05/03/12.

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***Grocers Supply Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-000513      AG Case #: 123320236

Filed: 2/21/2012

Sales and use Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom                      Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate the dismissal, for want of prosecution, of D-1-GN-09-001804.

Status: D-1-GN-09-001804 reinstated 05/03/12.

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***Grocers Supply Institutional Convenience Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-000514      AG Case #: 123320251

Filed: 2/21/2012

Sales and use Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom                      Hance Scarborough, L.L.P. / Austin



Issue: Plaintiff seeks to vacate the dismissal, for want of prosecution, of D-1-GN-09-001803.

Status: D-1-GN-09-001803 reinstated 05/03/12.

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***Grocers Supply Produce Co. v. Combs, et al.***

Cause Number: D-1-GN-12-000515 AG Case #: 123320269

Filed: 2/21/2012

Sales and use Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate dismissal, for want of prosecution, of D-1-GN-09-001805.

Status: D-1-GN-09-001805 reinstated 05/03/12.

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***Grocers Supply-Institutional-Convenience, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001803 AG Case #: 093131415

Filed: 6/6/2009

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$55,893.00      08/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Case dismissed for want of prosecution on 08/31/11, reinstated 05/03/12.

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***Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al.***

Cause Number: GN300904

AG Case #: 031782931

Filed: 3/20/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$79,688.23	06/01/95 - 05/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether Plaintiff's purchase of electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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***Grocers Supply-Produce Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001805 AG Case #: 093131423

Filed: 6/6/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$78,796.00	08/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Case dismissed for want of prosecution on 08/31/11, reinstated 05/03/12.

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***GSC Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: GN501091

AG Case #: 052132271

Filed: 4/7/2005

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$241,656.28	02/01/97 - 04/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.              Attorney at Law / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether the Comptroller violated the rules of statutory construction. Plaintiff claims violation of equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***H.K. Global Trading, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-11-002632    AG Case #: 113287932

Filed: 8/30/2011

Sales Tax; Protest, UDJA, APA

Claim Amount	Reporting Period
\$592,667.63	09/01/00 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald                      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom                      Hance Scarborough, L.L.P. / Austin

Issue: Whether §151.307(d), requiring a 24-hour interval between the time an item is exported and the time a Customs Broker may refund the sales tax paid on that item, violates the Export Clause of the U.S. Constitution.

Status: Answer filed.

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***Harsh's Guru Krupa, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001087    AG Case #: 123327686

Filed: 4/5/2012

Sales Tax; APA, UDJA

Claim Amount	Reporting Period
\$188,196.69	01/01/06 through 11/30/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.                      OAG Taxation / Austin

*Opposing Counsel*

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Lorenzana, Jr., Elias V.              The Lorenzana Law Firm, PC / Round Rock

Issue: Whether AP92 and AP122 were properly applied in determining Plaintiff's tax liability. Plaintiff seeks declaratory relief.

Status: Order of Nonsuit entered 05/18/12.

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***Health Care Service Corp. v. Combs, et al.***

Cause Number: D-1-GN-11-003387    AG Case #: 113299986

Filed: 11/3/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$191,475.44	06/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether certain transactions were subject to tax as taxable services. Whether certain transactions were eligible for the sale-for-resale exemption.

Status: Answer filed.

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***Health Care Service Corp., et al. vs. Compt., et al.***

Cause Number: D-1-GN-08-001771    AG Case #: 082512302

Filed: 5/23/2008

#03-10-00675-CV

#11-0652

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,475,798.29	1-1-1999 through 12-31-2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to the resale exemption pursuant to the Day & Zimmerman and Raytheon cases.

Status: Trial held 06/01/10. Judgment for Plaintiff entered 07/13/10. Order Denying Defendants' Request for Amended and Additional Findings of Facts and Conclusions of Law entered 08/23/10. Notice of Appeal filed 10/06/10. Appellant's Motion to Abate Appeal filed 11/29/10; overruled 12/09/10. Appellee's Response filed 12/08/10. Appellant's brief filed 01/11/11. Appellee's brief filed 02/09/11; oral argument requested. Oral argument denied 02/25/11. Appellant's Reply Brief filed 03/01/11. Appellee's certificate of conference filed 04/13/11. Appellant's and Appellee's Letter Briefs filed 04/20/11. Appellee's Motion to File Supplemental Brief filed 05/09/11; granted 05/24/11. Case submitted on briefs on 07/05/11. Memorandum Opinion issued 07/07/11, affirming the district court's judgment. Petition for Review filed 08/22/11. Response filed 11/28/11. Petitioner's Reply filed 12/21/11. Amicus Curiae letter received 01/20/12. Response to Amicus Curiae brief filed by Respondent on 01/26/12. Brief on the merits requested on 02/17/12. Petitioner's Motion to Consolidate filed 03/06/12. Petitioner's Brief filed 04/18/12. Respondent's Brief filed 05/08/12. Petitioner's Motion for Extension of Time to File Reply Brief filed 05/14/12; granted 05/17/12. Reply brief due 06/22/12.

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***Health Care Services, Corp. v. Combs***

Cause Number: D-1-GN-12-000387 AG Case #: 123316218

Filed: 2/10/2012

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$1,002,498.37      01/01/04 through 06/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether certain taxable items were sold to the federal government and whether such transactions are eligible for the sale-for-resale exemption.

Status: Answer filed.

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***High Tech Document Service v. Combs, et al.***

Cause Number: D-1-GN-10-000220 AG Case #: 103175469

Filed: 1/20/2010

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$61,592.65	09/01/00 through 01/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Whether the purchase of certain items subsequently leased to a third party are eligible for the sale-for-resale exemption.

Status: Jury trial previously set for 07/23/12 was passed by agreement.

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***Home Depot, USA, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002463 AG Case #: 062380324

Filed: 7/6/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,595,000.00	01/01/95 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether Plaintiff may take bad debt credit under private label credit agreement.

Status: Trial set for 09/24/12.

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***Hospice DME of Texas, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001746 AG Case #: 113271118

Filed: 6/10/2011

Sales and use Tax; Injunction; UDJA

Claim Amount Reporting Period

\$257,661.50 01/01/04 through 12/31/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Issue: Whether certain items sold by Plaintiff are exempt as prosthetic devices. Plaintiff seeks injunctive and declaratory relief.

Status: Discovery in progress.

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***Hospice DME of West Texas, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001743 AG Case #: 113271050

Filed: 6/11/2011

Sales and use Tax; Protest

Claim Amount Reporting Period

\$49,442.51 January 1, 2005 through December 31, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Issue: Whether certain items sold by Plaintiff are exempt as prosthetic devices.

Status: Discovery in progress.

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***Hospice DME, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001744 AG Case #: 113271134

Filed: 6/10/2011

Sales and use Tax; Injunction; UDJA

Claim Amount	Reporting Period
\$51,140.79	10/01/05 through 12/31/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Whether certain items sold by Plaintiff are exempt as prosthetic devices. Plaintiff seeks injunctive and declaratory relief.

Status: Discovery in progress.

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***Hotel Paso Del Norte, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-000115 AG Case #: 123312431

Filed: 1/16/2012

Sales and use Tax; Protest; APA; UDJA, & Injunctive Relief

Claim Amount	Reporting Period
\$247,028.49	07/01/00 through 12/31/03
\$363,618.46	04/01/01 through 03/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Lorenzana, Jr., Elias V.	The Lorenzana Law Firm, PC / Round Rock
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Issue: Plaintiff challenges a sales tax assessment and a hotel occupancy tax assessment.

Status: Discovery in progress.

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***J.E. Dunn Construction Co. v. Combs, et al.***

Cause Number: D-1-GN-11-002825 AG Case #: 113288617

Filed: 9/12/2011

Sales Tax; Refund

Claim Amount	Reporting Period
\$189,293.81	02/01/03 through 01/31/07



Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Ryan, Kory L.                      Ryan Law Firm, LLP / Austin  
Meisel, Seth E.

Issue: Whether Plaintiff properly calculated the amount of tax due on various contracts for remodeling services.

Status: Answer filed.

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***Kenneth O. Lester Co., et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003762    AG Case #: 082534553

Filed: 10/17/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$180,000.00	Sept. 1, 1999 through Feb. 29, 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.              Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity is exempt as electricity used in processing when Plaintiff lowers the temperature of food products. Whether packing supplies, replacement parts, and repairs are exempt.

Status: Case Dismissed for Want of Prosecution 05/06/11. Petition to Reinstate granted 05/03/12.

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***Kenneth O. Lester, Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-002741    AG Case #: 113287916

Filed: 9/2/2011

Sales Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate dismissal of D-1-GN-08-003762 for want of prosecution.

Status: D-1-GN-08-003762 reinstated on 05/03/12.

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***Krishna Bhavana, LLC and Krishna Kothari v. Combs, et al.***

Cause Number: D-1-GN-11-003393 AG Case #: 113300016

Filed: 11/3/2011

Sales and use Tax; Injunction

Claim Amount Reporting Period

\$283,592.01 05/01/2006 - 08/31/2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald

OAG Taxation / Austin

*Opposing Counsel*

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Sookdeo, Christina I.

Sookdeo & Associates, PC / Plano

Issue: Plaintiff contests sales tax assessment. Plaintiff also seeks injunctive relief.

Status: Discovery in progress.

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***KST Electric, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-11-003855 AG Case #: 123306664

Filed: 12/20/2011

Sales and use Tax; Protest

Claim Amount Reporting Period

\$162,197.00 01/01/05 - 09/30/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.

OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.

Martens, Todd & Leonard / Austin

Traphagan, Amanda M.

Leonard, Lacy L.

Issue: Plaintiff challenges the sampling methodology used in a sales tax audit.

Status: Answer filed.

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***La Frontera Lodging Partners, L.P., Tex-Air Investment Company, John Q. Hammons Hotels Two, L.P. and John Q. Hammons Hotels, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004633 AG Case #: 062430566

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$6,958.18	07/01/00 - 06/30/04
\$5,591.87	07/01/00 - 06/30/04
\$31,330.82	07/01/00 - 06/30/04
\$21,811.57	07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed. Court sent Notice of DWOP on 06/12/09. Plaintiffs' Amended Motion to Retain filed 08/19/09; granted 08/28/09. Case abated pending Doubletree DTWC Corp. v. Combs appeal.

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***Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: GN401379

AG Case #: 041964941

Filed: 4/30/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$18,579.66	05/01/93 - 06/30/96
	10/01/91 - 06/30/96
\$443,299.77	01/01/90 - 12/31/92
	07/01/91 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Osterloh, Curtis J.

Issue: Whether Plaintiff owes sales tax on the purchase of money validators due to the integration of the validators into the final product, the vending machine.

Status: Court denied Plaintiffs' MSJ heard on 04/01/10. Cross motions for summary judgment heard 02/21/12. Final Judgment entered 04/09/12, granting Defendant's MSJ and denying Plaintiff's MSJ.

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***Leoncito Plant, L.L.C. v. Combs, et al.***

Cause Number: D-1-GN-11-001116   AG Case #: 113260947  
#03-12-00376-CV

Filed: 4/14/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$619,588.00	01/01/04 - 09/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether the purchase of pumping equipment and piping is eligible for the water recycling exemption under §151.355(1). Whether purchase of casing is eligible for the manufacturing exemption under §151.318.

Status: State's partial MSJ granted 03/07/12. Order severing Plaintiff's Section 151.355(1) claim signed 05/23/12. Final Judgment regarding denial of the Section 151.318 claims signed 05/23/12. Plaintiff's Notice of Appeal filed 06/05/12.

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***LH Air, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001362   AG Case #: 123331381

Filed: 5/4/2012

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$399,643.47	07/01/07 through 09/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.	OAG Taxation / Austin
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*Opposing Counsel*

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Evans, Gary L.	Coats & Evans, P.C. / The Woodlands
Coats, George	

Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption as a sale for resale. Plaintiff also seeks declaratory relief.

Status: Answer filed.

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***Lockheed Martin Corp. v. Combs, et al.***

Cause Number: D-1-GN-11-003477 AG Case #: 113303010

Filed: 11/10/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,082,333.92	09/01/92 through 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Plaintiff asserts various sales tax refund claims based on sale-for-resale, manufacturing exemption, intra-company transfers and TPP shipped out of state.

Status: Trial set for 07/16/12 at 9:00 a.m.

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***Makara Enterprise, LP v. Combs, et al.***

Cause Number: D-1-GN-11-003507 AG Case #: 113302830

Filed: 11/15/2011

Sales and use Tax; Protest & UDJA

Claim Amount	Reporting Period
\$297,993.00	01/01/06 - 07/31/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether the audit procedures were proper. Plaintiffs also challenge assessment of individual liability against a partner. Plaintiffs challenge validity of a tax lien. Plaintiffs also seek declaratory and insolvency relief.

Status: Answer filed.

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***Matoka, Inc. vs. Compt., et al.***

Cause Number: D-1-GN-08-001217 AG Case #: 082505595

Filed: 4/10/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$171,963.00	04/01/2001 through 11/30/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether Plaintiff is engaged in non-taxable erosion control services. Whether the essence of Plaintiff's transactions is services. Whether Plaintiff's services are exempt as environmental services. Whether Rule 3.291 is invalid. Whether the Comptroller violated equal protection and the Commerce Clause. Plaintiff also seeks penalty and interest abatement and declaratory relief.

Status: Trial set for 04/25/11. Trial setting passed by agreement.

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***Maxus Energy Corporation as Successor in Interest to Maxus Corporate Company v. Strayhorn, et al.***

Cause Number: GN404187

AG Case #: 052082260

Filed: 12/27/2004

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period  
\$1,794,780.29      09/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.                      Jones Day / Dallas  
Lochridge, Robert

Issue: Whether items purchased by Plaintiff to be exported outside of the U.S. by a freight consolidator and not invoiced individually are exempt from sales and use tax. Whether the Comptroller's auditing techniques can assess tax on transactions previously audited and non-assessed. Whether Plaintiff "purchased" or "rented" software, and whether services provided to implement the software are taxable. Whether services performed on tangible personal property provided by a third party are exempt from sales and use tax. Plaintiff claims violation of equal and uniform taxation, and due process. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Defendant's Motion to Dismiss filed 02/09/12.

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***NCO Financial Systems, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-004447    AG Case #: 113247738

Filed: 12/22/2010

Sales and use Tax; Refund

Claim Amount      Reporting Period  
\$1,889,671.18      (+ principal & interest) 08/01/99 through 12/31/0

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether debt collection services provided by Plaintiff should be exempt as a service benefiting an out-of-state customer under 34 TAC 3.345(g). Plaintiff also asserts a refund claim for taxes paid on financial settlement services and on interpretation and translation services.

Status: Trial set for 08/27/12.

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***OA, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-000506 AG Case #: 123320509

Filed: 2/21/2012

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$710,179.24	01/01/07 - 06/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Grimsinger, William O.	Chamberlain, Hrdlicka, White, Williams & Martin / Houston
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Fountain, Renesha  
Huey, Renee

Issue: Whether an aircraft purchased and registered out of state, but used in Texas, is subject to the use tax.

Status: Answer filed.

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***Olmos Abatement, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004361 AG Case #: 083092882

Filed: 12/3/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$9,739.97	10/01/01 through 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Trickey, Timothy M.	The Trickey Law Firm / Austin
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Issue: Whether expense items used in the asbestos abatement process are exempt. Whether the items were resold to the exempt entities for whom the services were performed.

Status: Answer filed.

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***Pointsmith Point of Purchase Management Services, LP v. Combs, et al.***



Cause Number: D-1-GN-11-001514 AG Case #: 113269286

Filed: 5/20/2011

Sales and use Tax; Protest

Claim Amount Reporting Period

\$247,670.20 11/11/03 through 03/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Masters, Paul H. Chamberlain, Hrdlicka, White, Williams & Martin  
/ Houston

Grimsinger, William O.

Issue: Whether charges associated with Defendant's printing services should be characterized as a receipt for storage services. Whether certain transactions are exempt as sale-for-resale. Whether certain transactions are exempt as out of state sales. Whether the Comptroller properly calculated the error rate in the audit. Whether the Comptroller properly denied penalty and interest waiver.

Status: Answer filed. Discovery in progress.

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***Pop Restaurants, LLC. v. Combs, et al.***

Cause Number: D-1-GN-10-002636 AG Case #: 103207007

Filed: 7/9/2010

Sales and use Tax; Protest

Claim Amount Reporting Period

\$91,679.00 01/01/2003 thru 12/31/2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Plaintiff alleges that it over reported sales and remitted sales tax on that amount.

Status: Plaintiff's MSJ filed 07/01/11. Defendant's MSJ filed 08/12/11.

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***Rackspace US Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-000947 AG Case #: 113260749

Filed: 3/31/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$739,186.00	10/01/01 - 06/30/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether purchase of a software license qualifies for the sale-for-resale exemption.

Status: Bench trial set for 07/02/12 at 9:00 a.m.

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***Richard's Heating & Air Conditioning, Inc. v. State of Texas, et al.***

Cause Number: C-1-CV-08-006490 AG Case #: 082517020

Filed: 6/30/2008

Sales and use Tax; Injunction

Claim Amount	Reporting Period
\$325,245.13	Apr. 1, 2003 - Aug. 31, 2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Leeper, David P.	El Paso
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Issue: Whether sales tax was correctly calculated. Whether Plaintiff qualifies for insolvency relief. Plaintiff seeks injunctive relief, damages, and attorney's fees.

Status: Plaintiff's Motion for Summary Judgment filed, no date set.

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***Richmont Aviation, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-000783 AG Case #: 113254387

Filed: 3/16/2011

#03-11-00486-CV

#03-11-00486-CV

Sales and use Tax; Injunction

Claim Amount	Reporting Period
\$530,195.64	01/01/04 thru 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption pursuant to either §151.328 (a)(1) or the sale for resale exemption.

Status: Hearing on State's PTJ and Plaintiff's application for injunctive relief held on 06/02/11. Trial court granted State's PTJ on 06/29/11. Notice of Appeal filed 07/29/11. Appellant's Brief filed 02/27/12. Appellee's Brief filed 03/28/12. Appellant's Reply Brief filed 04/17/12.

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***Roadway Express, Inc. v. Rylander, et al.***

Cause Number: GN002831

AG Case #: 001357631

Filed: 9/25/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$713,686.05	04/01/88 - 05/31/92
\$206,053.87	04/01/88 - 05/31/92

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lochridge, Robert	

Issue: Whether various equipment used by the Plaintiff with its trucks is exempt from use tax as tangible personal property sold to a common carrier for use outside the state. Alternatively, whether the equipment had been taxed as vehicle components under the interstate motor carrier tax and could not be taxed as "accessories." Alternatively, whether taxing 100% of the value of the equipment violates the Commerce Clause because of a lack of substantial nexus and of fair apportionment. Whether all tax was paid on Plaintiff's repair and remodeling contracts and capital assets. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Trial setting passed. Discovery in progress.

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***Roark Amusement & Vending, L.P. v. Combs, et al.***

Cause Number: D-1-GN-10-003530 AG Case #: 103224986

Filed: 9/30/2010

Sales and use Tax; Refund, Protest &amp; Declaratory Judgment

Claim Amount	Reporting Period
\$303,542.00	03/01/04 - 09/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

Martens, James F.	Martens, Todd & Leonard / Austin
Traphagan, Amanda M.	

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Answer filed.

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***Roark Amusement & Vending, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004726 AG Case #: 072431166

Filed: 12/22/2006

Sales Tax; Refund &amp; Declaratory Judgment

Claim Amount	Reporting Period
\$1,027,105.00	10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

Martens, James F.	Martens, Todd & Leonard / Austin
Seay, Michael B.	

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Case consolidated into Cause #D-1-GN-06-004725 on 12/02/09.

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***Roark Amusement & Vending, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004725 AG Case #: 072431158

Filed: 12/22/2006

#03-10-00105-CV

#11-0261

Sales Tax; Protest

Claim Amount	Reporting Period
\$443,221.70	10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens, Todd & Leonard / Austin
Seay, Michael B.	

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Case consolidated with D-1-GN-06-004726 and set for MSJ hearing on 12/02/09.

Motion to Retain filed 06/01/09. MSJ hearing reset by agreement for 02/17/09. Order granting Defendant's MSJ and denying Plaintiff's Motion for Partial Summary Judgment signed and entered on 02/22/10.

Notice of Appeal filed 02/23/10. Clerk's Record filed 03/25/10. Appellant's brief filed

06/02/10. Appellee's brief filed 07/02/10. Appellant's reply brief filed 08/18/10. Case submitted on oral argument on 12/15/10. Memorandum Opinion issued 01/26/11, reversing the trial court's grant of summary judgment in favor of the State, rendering judgment that Roark is entitled to the exemption, and remand the cause to the trial court for a determination of the amount of the refund to which Roark is entitled. Motion for Rehearing filed 02/10/11; overruled 02/24/11.

Petition for Review filed in the Texas Supreme Court on 04/11/11. Amicus Curiae letter received 04/19/11. Court requested response on 05/20/11. Response to Petition for Review filed 06/07/11. Petitioner's Reply filed 06/22/11. Brief on the merits requested 08/19/11. Petitioner's Brief filed 09/19/11. Respondent's Brief filed 11/09/11. Petitioner's Reply Brief filed 11/28/11. Petitioner's Motion to Postpone Submission Date filed 01/27/12; granted 02/03/12.

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***Root's Rocks, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-004391 AG Case #: 113241509

Filed: 12/17/2010

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$273,052.00	05/01/03 through 02/28/07

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin	OAG Taxation / Austin
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Opposing Counsel

Tome, Christopher J.	C. Tome Law Firm / Cedar Park
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Issue: Whether Plaintiff's books and records accurately receipts subject to sales tax. Whether certain transactions are exempt as out of state sales.

Status: Answer filed.

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***Salim Abbas Merchant v. Combs, et al.***

Cause Number: D-1-GN-09-000511 AG Case #: 093107688

Filed: 2/17/2009

Sales and use Tax; Protest

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade	OAG Taxation / Austin
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Opposing Counsel

Canfield, George W.	San Antonio
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Issue: Plaintiff seeks review under the APA of a sales tax deficiency. Plaintiff claims that the Comptroller used unreliable data and incorrect mark-up percentages.

Status: Discovery in progress.

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***Sanadco, Inc. and Mahmoud A. Isba aka Moumoud Ahmed Abuisba aka Mike Isba v. Combs, et al.***

Cause Number: D-1-GN-10-000902 AG Case #: 113243950  
#03-11-00462-CV

Filed: 1/12/2011

Sales and use Tax; Declaratory Judgment, APA

Claim Amount	Reporting Period
\$26,312.00	01/01/08-02/28/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack	OAG Taxation / Austin
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*Opposing Counsel*

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Jackson, Sammual T.	Arlington
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Issue: Whether AP92 and AP122 were properly applied in determining Plaintiff's tax liability. Whether the implementation of AP92 and AP122 was in violation of the APA.

Status: Plea to the Jurisdiction granted 07/08/11. Notice of Appeal filed in the Third Court of Appeals on 07/25/11. Appellant's brief filed 08/24/11. Appellee's brief filed 10/13/11. Appellant's Reply Brief filed 12/14/11. Case submitted on oral argument on 01/11/12. Sanadco's Motion for Emergency Relief and Petition for Writ of Injunction denied on 02/24/12. Sanadco's Motion for Emergency Relief and Petition for Mandamus filed in Texas Supreme Court on 03/07/12; denied 05/03/12.

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***Scott A. Williams v. Combs, et al.***

Cause Number: D-1-GN-10-004304 AG Case #: 103237426

Filed: 12/8/2010

Sales and use Tax; Administrative appeal; Injunction

Claim Amount	Reporting Period
\$83,022.00	July 1, 2005 through December 31, 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Kennedy, Nathan L.                      Austin

Issue: Whether the procedures applied in the audit were appropriate. Taxpayer also seeks injunctive relief.

Status: Answer filed.

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***Shehzad Dhanani v. Combs, et al.***

Cause Number: D-1-GN-10-003321    AG Case #: 103224499

Filed: 9/17/2010

Sales and use Tax; Protest, Injunction & Declaratory Judgment

Claim Amount      Reporting Period

\$14,987.77      11/01/05 through 04/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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Gamboa, John L.                      Gamboa & White / Fort Worth

Issue: Whether Plaintiff, as the general manager of a convenience store, is liable for certain tax delinquencies of that entity, including taxes collected but not remitted.

Status: Answer filed.

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***Southern Union Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004637    AG Case #: 062430574

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount      Reporting Period

\$747,733.01      07/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Hagenswold, R. Eric

Issue: Whether Plaintiff's purchases of gas pipes, valves and meters are exempt from sales and



use tax as tangible personal property under the sale for resale exemption.

Status: Answer filed.

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***Southern Union Gas v. Combs, et al.***

Cause Number: D-1-GN-09-001536 AG Case #: 093127603

Filed: 5/14/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$2,910,000.00	07/01/1997 through 06/30/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Hagenswold, R. Eric	

Issue: Whether property used in gas processing and distribution is exempt under the manufacturing exemption. Whether the property is exempt as property used to comply with public health laws. Whether services performed on that property were exempt under §151.3111. Whether pipes, valves, and meters installed on customers' premises are exempt as sales for resale.

Status: Answer filed.

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***Southwest Royalties, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-004284 AG Case #: 103170106

Filed: 12/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$960,000.00	Jan. 1, 1997 through April 30, 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Plaintiff's refund suit raises approximately 50 sales and use tax issues in relation to its

production and refining operations. Claims include waste removal, sale for resale, environmental services, and various manufacturing exemption claims.

Status: Judgment for the State on 04/30/12. Plaintiff requested Findings of Fact and Conclusions of Law on 05/01/12.

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***Sysco Food Services of Austin, Inc. v. Strayhorn, et al.***

Cause Number: GN400465

AG Case #: 041925850

Filed: 2/17/2004

Sales Tax; Protest

Claim Amount	Reporting Period
\$92,357.48	05/01/98 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Osterloh, Curtis J.	

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al.***

Cause Number: GN100633

AG Case #: 011420734

Filed: 3/1/2001

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$196,492.74	01/01/94 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
Blume, James D.	BLUME, FAULKNER, SKEEN & NORTHAM, PLLC / Richardson

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether equipment is exempt for the same reason.

Status: Pending Sysco Food Services of Austin, Inc. v. Strayhorn, et al., Cause #GN400465.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Services of Houston, Inc.) v. Strayhorn, et al.***

Cause Number: GN302075

AG Case #: 031816119

Filed: 6/13/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$270,401.80	07/01/94 - 06/30/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Blume, James D.	BLUME, FAULKNER, SKEEN & NORTHAM, PLLC / Richardson
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Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether equipment is exempt for the same reason.

Status: Pending Sysco Food Services of Austin, Inc. v. Strayhorn, et al., Cause #GN400465.

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***Sysco Food Services of San Antonio, LP, et al. v. Combs***

Cause Number: D-1-GN-09001026

AG Case #: 093116531

Filed: 3/31/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$239,634.20	01/01/02 through 09/30/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Osterloh, Curtis J.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether electricity used to lower the temperature of food products is exempt as

electricity used in processing.

Status: Answer filed.

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***Tara Levy, Robert Tycast, Vivian Daywood, John Butler, Rocky & Linda Piazza and Paul DeNucci, et al. v. Combs, et al.***

Cause Number: D-1-GN-10-001182 AG Case #: 103191029  
#03-10-00648-CV

Filed: 4/13/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,604,367.17	Comp USA
\$11,017,104.44	Best Buy
\$1,999,730.71	Office Max

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar OAG Taxation / Austin

*Opposing Counsel*

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Perlmutter, Mark L. Perlmutter & Schuelke, L.L.P. / Austin

Issue: Whether claimant had standing to present the refund claim. Whether the claimant's documentation was sufficient to verify the claimed refund amount. Whether certain transactions are barred by the statute of limitations.

Status: Comptroller's Plea to the Jurisdiction considered 07/20/10. Final Order granting Comptroller's PTJ entered 09/03/10. Notice of Appeal filed 09/23/10. Appellant's brief filed 12/06/10. Appellee's Brief filed 01/18/11. Appellant's Reply Brief filed 02/17/11. Case submitted on oral argument on 04/13/11. Appellant's Notice filed 04/29/11.

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***Tecpetrol Operating, LLC v. Combs, et al.***

Cause Number: D-1-GN-10-002353 AG Case #: 103225868

Filed: 7/9/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$89,888.00	06/01/04 - 09/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray  
Britt, Steve

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether certain compressors used to move natural gas are subject to the manufacturing exemption.

Status: Answer filed.

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***Texas and Kansas City Cable Partners LP v. Combs, et al.***

Cause Number: D-1-GN-09-001257 AG Case #: 093127587

Filed: 4/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$18,434,607.00	01/01/2003 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether Plaintiff's equipment is exempt as property used in manufacturing. Whether equipment used to insert commercials and other programming into television signals is exempt as equipment used in the production of motion picture, video or audio programming or as the production of broadcasts and television programming. Whether electricity and various services are exempt purchases by Plaintiff. Whether interest and penalty should be waived.

Status: Discovery in progress.

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***Texas Gulf, Inc. v. Bullock, et al.***

Cause Number: 485,228

AG Case #: 90311185

Filed: 6/5/1990

Sales Tax; Refund

Claim Amount	Reporting Period
\$294,000.00	01/01/85 - 06/30/88

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.	OAG Taxation / Austin
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*Opposing Counsel*

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Lipstet, Ira A.

DuBois Bryant Campbell & Schwartz, L.L.P. /  
Austin

Issue: Are pipes exempt as manufacturing equipment or taxable as intra-plant transportation.

Status: Inactive.

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***Texas Waste Systems, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-001865 AG Case #: 103201638

Filed: 6/7/2010

Sales and use Tax; Declaratory Judgment, APA

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald

OAG Taxation / Austin

*Opposing Counsel*

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Tubbs, Laura Denise

Austin

Issue: Plaintiff alleges that the Comptroller failed to provide proper notice of an audit determination and that Plaintiff's request for a redetermination hearing was improperly denied. Plaintiff also seeks a declaration under the UDJA as to the amount of tax due. Plaintiff further alleges that the protest payment requirements of Tax Code §112.051 are violative of both the Texas and U.S. Constitutions.

Status: Plaintiff Counsel's Motion to Withdraw filed. Order granting Defendant's Motion to Dismiss for Want of Prosecution granted, 12/15/11.

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***The Neiman-Marcus Group, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-003377 AG Case #: 113298616

Filed: 11/2/2011

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$1,425,000.00      03/01/05 through 12/31/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Ryan, Kory L.

Ryan Law Firm, LLP / Austin

Meisel, Seth E.

Issue: Plaintiff asserts refund claim based on multiple grounds, including: data processing, sale for resale, multi-state use, temporary storage and charitable purchases.

Status: Discovery in progress.

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***Time Warner Entertainment & Advance Newhouse v. Combs, et al.***

Cause Number: D-1-GN-09-001982 AG Case #: 093136828

Filed: 6/19/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$5,413,530.44	01/01/2000 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether Plaintiff qualifies for the exemption on manufacturing and processing in sections 151.318 and 151.317. Whether services were exempt under §151.3111. Whether Plaintiff resold electricity as part of a taxable service. Whether some equipment is exempt under §151.3185 and various service issues. Plaintiff also seeks penalty and interest waiver.

Status: Answer filed.

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***Tree of Life, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-003402 AG Case #: 113300008

Filed: 11/4/2011

Sales and use Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Plaintiff seeks to vacate the dismissal of D-1-GN-06-002103 for want of prosecution.

Status: Petition to reinstate D-1-GN-06-002103 granted 05/03/12.

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***Tree of Life, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002103 AG Case #: 062367701

Filed: 6/9/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$200,000.00	01/01/97 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether the process causes a physical change to the products. Whether packing supplies and replacement parts of processing equipment qualify as manufacturing equipment and exempt from sales tax. Whether the Comptroller violated the rules of statutory construction. Plaintiff claims violation of equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Case reinstated on 05/03/12.

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***U.S. Food Service, Inc. f/k/a White Swan, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-002611 AG Case #: 113287874

Filed: 8/29/2011

Sales Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Plaintiff seeks to vacate dismissal of GN304767 for want of prosecution.

Status: Petition to reinstate GN304767 granted 05/03/12.

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***U.S. Foodservice, Inc., et al. v. Combs, et al.***

Cause Number: D-1-GN-09-003215 AG Case #: 093153260

Filed: 9/18/2009

Sales and use Tax; Refund



Claim Amount	Reporting Period
\$48,908.29	07/01/1998 through 07/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Whether electricity used to lower temperature of food products is exempt as electricity used in processing.

Status: Answer filed.

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***U.S. Foodservices, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000060 AG Case #: 103174488

Filed: 1/7/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$200,000.00	(Plus penalty and interest)06/01/01 thru 09/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Petition also asserts manufacturing exemption claims for replacement parts, wrapping & packaging materials and certain work clothes.

Status: Answer filed.

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***United Space Alliance, LLC v. Combs, et al.***

Cause Number: D-1-GN-09-004310 AG Case #: 103169785

Filed: 12/18/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$22,353.86	August, October and November 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether electricity consumed by the Plaintiff is eligible for the sale for resale exemption.

Status: Answer filed.

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***V.H. Salas & Associates, Inc. v. Comptroller***

Cause Number: GN403975

AG Case #: 042071365

Filed: 12/6/2004

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$66,543.64	08/01/98 - 04/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.                      OAG Taxation / Austin

*Opposing Counsel*

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Lopez, Diego A.                      The Law Offices of Diego A. Lopez / San Antonio

Issue: Whether Plaintiff owes sales tax on purchased equipment used in the manufacturing of wood and metal products. Whether Plaintiff owes sales tax on electricity used to operate the equipment. Whether Plaintiff was denied due process of law and the right to equal protection of the law. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Motion to Dismiss for Want of Prosecution granted 03/26/12.

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***Verizon Business Network Services, Inc. v. Compt. Et. Al.***

Cause Number: D-1-GN-07-004221  
#07-11-00025-CV

AG Case #: 072484389

Filed: 12/7/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$20,179,336.77	01/01/96 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether programming services were taxable. If the services are taxable, whether their sale or use occurred in Texas.

Status: Bifurcated trial held 01/19/10. Case submitted to court after trial on 01/20/10. Post-submission briefs submitted on 02/03/10. Court ruled for Defendants on creation of TPP and first use in Texas, and against Defendants on delivery of other TPP (non-custom software). Trial on bifurcation portion on 10/04/10 in favor of Plaintiff. Final Judgment entered 10/29/10. Notice of Appeal filed by Verizon on 12/03/10. Case transferred to Amarillo Court of Appeals on 01/25/11. Appellant's Brief filed 04/04/11; oral argument requested. Appellee's brief filed 05/05/11. Appellant's Reply Brief filed 05/31/11. Appellant's Motion for Oral Argument filed 06/27/11. Appellee's Response filed 06/30/11. Appellant's Motion for Oral Argument denied 07/12/11. Case submitted on oral argument on 01/09/12. Appellee and Appellant Letter Briefs filed 02/14/12.

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***W. Robert Brown v. Combs, et al.***

Cause Number: D-1-GN-11-000338 AG Case #: 113248231

Filed: 2/1/2011

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$21,228.61	04/01/03 - 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.

OAG Taxation / Austin

*Opposing Counsel*

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Tamborello, Gus G.

Houston

Issue: Whether sale of an aircraft qualified as an exempt sale of the seller's entire operating assets. Whether the assessment was barred by the 4-year statute of limitations.

Status: Discovery in progress.

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***Watson Sysco Food Services, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002879 AG Case #: 062397849

Filed: 8/10/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$63,720.38	04/01/01 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Hagenswold, R. Eric	Scott, Douglass & McConnico, L.L.P. / Austin
Osterloh, Curtis J.	

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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***Weatherization Management Group, LLC, In re***

Cause Number: D-1-GN-12-000456 AG Case #: 123309676

Filed: 2/17/2012

Sales and use Tax; Injunction

Claim Amount	Reporting Period
\$100,000.00	

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.	OAG Taxation / Austin
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*Opposing Counsel*

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Wood, Mary E.	Meadows, Collier, Reed, Cousins, Crouch & Ungerman, LLP / Dallas
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Issue: Plaintiff challenges the requirement to post a security bond. Plaintiff seeks injunctive relief.

Status: Answer filed.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: GN304767

AG Case #: 041904608

Filed: 12/18/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$415,185.61	10/01/93 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the decision of the Comptroller violated the statute and long-standing Comptroller policy.

Status: Discovery in progress.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002987 AG Case #: 062398086

Filed: 8/17/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$219,297.54	01/01/98 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the purchases of packing supplies and repairs to and replacement parts of processing are exempt from sales tax. Whether the decision of the Comptroller violated the rules of statutory construction and long-standing Comptroller policy. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***Wyndham International Operating Partnership, LP v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004260 AG Case #: 062425574

Filed: 11/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$31,283.31	01/01/99 - 09/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed. Court sent Notice of DWOP on 04/03/09. Plaintiff's Amended Motion to Retain filed and granted 08/19/09. Case abated pending Doubletree DTWC v. Combs appeal.

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***Zale Delaware, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-003994 AG Case #: 103233847

Filed: 11/12/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,198,935.00	01/01/01 through 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether Plaintiff's methodology for calculating bad debt deduction is proper. Whether credit interest under §111.064 is applicable to a refund generated by a bad debt deduction.

Status: Hearing on Cross Motion for Summary Judgment held 07/06/11. Court granted Defendants' Motion in part on credit interest issue & denied remainder of Defendants' Motion and Plaintiff's Motion in its entirety. Plaintiff's motion for bifurcated non-jury trial denied 09/08/11. Hearing on PTJ, Motion to Strike & Motion to Quash on 10/04/11. State's PTJ denied 10/13/11. Trial previously set for 06/11/12 has been passed.

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***Zimmer US, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002096 AG Case #: 093136620  
#03-11-00178-CV

Filed: 6/30/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$947,827.00	09/01/03 through 02/28/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Plaintiff claims that surgical instrument kits used to install prosthetic devices are "supplies" under §151.313 (a)(5). Alternatively, Plaintiff claims that the kits are either purchased for resale or are donated to an exempt organization.

Status: Hearing on Cross Motions for Summary Judgment held on 02/23/11. Summary Judgment for Defendants entered on 02/24/11. Notice of Appeal filed 03/25/11. Appellant's Brief filed 05/31/11. Appellee's brief filed 6/29/11. Appellant's Reply Brief filed 07/19/11. Case submitted on oral argument 10/19/11. Opinion issued 02/09/12, reversing the district court's judgment. Appellee's Motion for Rehearing filed 03/09/12; overruled 04/25/12.

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## Insurance Tax

### ***American National Insurance Company v. Combs, et al.***

Cause Number: D-1-GN-11-002014 AG Case #: 113278345

Filed: 7/6/2011

Gross Premium Tax & Maintenance Tax Tax; Refund, APA, UDJA

Claim Amount	Reporting Period
\$1,469,527.13	1999-2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Conway, Susan G.	Graves, Dougherty, Hearon & Moody / Austin
Cabaniss, Boyce C.	

Issue: Whether certain premiums collected by Plaintiff are exempt as premiums paid for reinsurance.

Status: Answer filed.

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### ***American National Life Insurance Company of Texas v. Combs, et al.***

Cause Number: D-1-GN-11-002018 AG Case #: 113278469

Filed: 7/6/2011

Gross Premium Tax & Maintenance Tax Tax; Refund, APA, UDJA

Claim Amount	Reporting Period
\$614,142.00	1999-2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Conway, Susan G.	Graves, Dougherty, Hearon & Moody / Austin
Cabaniss, Boyce C.	

Issue: Whether certain premiums collected by Plaintiff are exempt as premiums paid for reinsurance.

Status: Answer filed.

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***Argonaut Insurance Company and Argonaut Great Central v. Combs, et al.***

Cause Number: D-1-GN-11-001584 AG Case #: 113269278

Filed: 5/26/2011

Gross Premium & Maintenance Tax; Protest

Claim Amount	Reporting Period
\$1,157,588.33	01/01/2006 through 12/31/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.	OAG Taxation / Austin
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*Opposing Counsel*

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Pauerstein, Jonathan D.	Rosenthal Pauerstein Sandoloski Agather LLP / San Antonio
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Bergman, Alia M.

Issue: Whether premium payments received by Defendants should be characterized as reinsurance premiums.

Status: Discovery in progress.

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***Fidelity National Title Ins. Co. v. Combs, et al.***

Cause Number: D-1-GN-10-001722 AG Case #: 103198883

Filed: 5/27/2010

Gross Premium Tax; Protest & UDJA

Claim Amount	Reporting Period
\$954,557.00	2009 to 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Burgess, Linda	Winstead P.C. / Austin
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Issue: Whether imposition of a premium tax on the entire amount of a title insurance premium is violative of:

- i) the equal protection clauses of the U.S. and Texas Constitutions and
- ii) the equal and uniform taxation provision of the Texas Constitution

Status: Answer filed.

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***Standard Life and Accident Insurance Company v. Combs, et al.***

Cause Number: D-1-GN-11-002020 AG Case #: 113278428

Filed: 7/6/2011

Gross Premium Tax & Maintenance Tax Tax; Refund, APA, UDJA

Claim Amount Reporting Period

\$292,098.81 1999-2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Conway, Susan G.

Graves, Dougherty, Hearon & Moody / Austin

Cabaniss, Boyce C.

Issue: Whether certain premiums collected by Plaintiff are exempt as premiums paid for reinsurance.

Status: Answer filed.

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***Warranty Underwriters Insurance Company v. Rylander, et al.***

Cause Number: 99-12271

AG Case #: 991226739

Filed: 10/20/1999

Insurance Tax; Protest & Declaratory Judgment

Claim Amount Reporting Period

\$416,462.73 1993 - 1997

\$214,893.74 1993 - 1997

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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White, Raymond E.

McGinnis, Lochridge & Kilgore, LLP / Austin

Issue: Whether the Comptroller improperly included amounts not received by Plaintiff in Plaintiff's gross premiums tax base. Whether any maintenance tax is payable on Plaintiff's business of home warranty insurance. Whether the Comptroller is bound by the prior actions and determinations of the Texas Department of Insurance. Whether the assessments of tax violate due process and equal taxation. Whether penalty and interest should have been waived.

Status: Trial set for 07/30/12.

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## Other Taxes

### ***35 Bar & Grill, LLC, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002535 AG Case #: 082520511

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$1,913,112.25	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Deegear III, James O.  
Matthews-Kasson, Michell

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also claims due process violations, and seeks declaratory and injunctive relief.

Status: Answer filed.

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### ***A & D Interests, Inc., dba Heartbreakers v. Compt., et al.***

Cause Number: D-1-GN-08-002410 AG Case #: 082519083

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$67,785.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Pianelli, James V. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Anadarko Austin Chalk, Co., Anadarko Petroleum Corp., and Anadarko E&P Co., LP v. Combs, et al.***

Cause Number: D-1-GN-11-002852 AG Case #: 113292023

Filed: 9/14/2011

Gas Production Tax; Refund

Claim Amount	Reporting Period
\$2,916,255.80	09/01/95 - 09/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Dashiell, Doug	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff timely applied for a credit/refund pursuant to the §201.057 high cost gas exemption.

Status: Notice of Nonsuit filed 05/22/12.

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***Badger Tavern L.P. et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003794 AG Case #: 082534447

Filed: 10/20/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$21,065.00	Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Bassam Jaber Hantouli v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003547 AG Case #: 082531468

Filed: 9/26/2008

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$352,819.92	Jan. 1, 2003 - Aug. 31, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Gamboa, John L.	Gamboa & White / Fort Worth
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Issue: Whether the Comptroller correctly estimated Plaintiff's tax on beer sales. Whether penalty and interest should be waived. Plaintiff seeks declaratory and injunctive relief.

Status: Discovery in progress. Non-Jury trial previously set for 09/26/11 has been passed by agreement.

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***Benelux Corp., dba The Palazzo & Ziggfeld's Entertainment, Inc., dba Expose v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003385 AG Case #: 082529652

Filed: 9/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$70,620.00	Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Benelux Corp., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002489 AG Case #: 082520487

Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$91,240.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.

Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Combs, et al. v. Texas Entertainment Association, Inc. and Karpod, Inc.***

Cause Number: D-1-GN-07-004179 AG Case #: 072480643

Filed: 12/7/2007

#03-08-00213-CV

#09-0481

S.O.B. Fee Tax; Declaratory Judgment & Injunction

Claim Amount      Reporting Period

2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald

OAG Taxation / Austin

*Opposing Counsel*

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Whitehead, G. Stewart

Winstead P.C. / Austin

Issue: Whether collection of a fee on sexually oriented businesses where alcohol is consumed violates the First Amendment as an illegal restriction on free speech. Whether the fee is an occupation tax that violates equal protection and fails to allocate revenue to public.

Status: Plaintiffs' application for temporary injunction was denied on 12/18/07. Plaintiffs filed a Motion for Partial Summary Judgment on 12/21/07, and set it for a hearing on 01/22/08. Defendants filed a Conditional Motion for Partial Summary Judgment and Motion for Leave to Supplement the Motion or for Continuance on 12/28/07. The parties agreed to continue the hearing until 02/05/08 at 2 p.m. The parties' responses are due 01/29/08. Hearing on Plaintiff's Motion for Partial Summary Judgment held on 02/05/08. Plaintiff's Motion for Partial Summary Judgment was denied 03/04/08. Court signed judgment for Plaintiffs on 03/28/08. Findings of Fact and Conclusions of Law signed 05/07/08. Additional Findings of Fact and Conclusions of Law signed 06/10/08. Motion to Supersede & Petition for Mandamus proceedings. Appellants' brief filed 08/11/08. Argued by Solicitor General on 02/11/09. Opinion issued 06/05/09, affirming district court's judgment. The Comptroller filed a Petition



for Review with the Texas Supreme Court on 06/11/09. Response filed 07/10/09. Briefing on the merits requested 08/26/09. Petitioner's Brief filed 09/25/09. Respondent's Brief filed 10/15/09. Petitioner's Reply Brief filed 10/30/09. Case submitted on oral argument on 03/25/10. Opinion issued 08/26/11, reversing the judgment of the Court of Appeals and remanding the case to the trial court for further proceedings. Petition for Writ of Certiorari filed with the U.S. Supreme Court on 11/23/11; denied 01/23/12. Case on Remand in District Court for remaining issues. Hearing set for oral argument 06/28/12.

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***D. Houston, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002483 AG Case #: 082519117

Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
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\$482,440.00	Jan. - Apr. 2008
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Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Monshaugen, Ronald A.

Monshaugen & Van Huff, P.C. / Houston

Van Huff, Albert T.

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector***

Cause Number: 30861

AG Case #: 072457880

Filed: 6/1/2007

Motor Vehicle Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
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\$180.00	2007
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Counsel Associated With This Case:

*Assistant Attorney General*

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Mather, Melissa

OAG Taxation / Austin

*Opposing Counsel*

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Clevenger, Ty

Attorney at Law / Bryan

Issue: Plaintiffs claim Section 152.023 of the Tax Code violates the Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution; the Commerce Clause of Article I, Section 8 of the United States Constitution; and the Privileges and Immunities Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Plaintiffs also seek attorneys' fees.

Status: Case transferred to Travis County. Court sent Notice of DWOP. Plaintiff filed Motion to Retain and Motion for Summary Judgment on 06/30/11. Motion to Retain granted 09/29/11. Plaintiff filed a Motion for Protective Order on 11/30/11, seeking to avoid responding to certain discovery requests sent by the Comptroller. No hearing has been set.

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***El Paso Entertainment, Inc. dba v. Compt., et al.***

Cause Number: D-1-GN-08-002548 AG Case #: 082520578

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
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\$64,767.00	Jan. - Apr. 2008
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Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.

Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Emirates, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-002349 AG Case #: 113282073

Filed: 8/3/2011

Motor fuel tax Tax; Refund

Claim Amount	Reporting Period
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\$115,248.00	12/01/2007 through 12/31/2007
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Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald

OAG Taxation / Austin

*Opposing Counsel*

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Osterloh, Curtis J.

Scott, Douglass & McConnico, L.L.P. / Austin

Britt, Steve

Issue: Whether Plaintiff's purchase of aviation fuel is exempt under §162.204(a)(6).

Status: Hearing on Defendants' Plea to the Jurisdiction set for 06/11/12.

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***Enterprise Operating Co., Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002575 AG Case #: 082520545

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
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\$76,780.00	Jan. - Apr. 2008
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Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Serper, Lauren M.

Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery suspended by Rule 11 Agreement. Pending final disposition of Texas Entertainment case.

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***FW, Inc. and S & S Bros., Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002617 AG Case #: 082526575

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
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\$23,685.00	FW, Inc.
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\$15,881.25	S&S Bros, Inc.
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Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Deegear III, James O.

Matthews-Kasson, Michell

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Golden Productions JCG Fort Worth LLC., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002522 AG Case #: 082519992

Filed: 7/16/2008

Other Tax; Protest

Claim Amount Reporting Period

\$11,055.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***I Gotcha, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002546 AG Case #: 082520503

Filed: 7/17/2008

Other Tax; Protest

Claim Amount Reporting Period

\$79,195.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Gamboa, John L. Gamboa & White / Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Isis Partners, L.P., et al. vs. Combs, et al.***

Cause Number: D-1-GN-07-002828 AG Case #: 072470107

Filed: 9/4/2007

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount      Reporting Period  
\$20,409.70      09/01/02 through 11/30/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald      OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray      Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Plaintiff claims that the Comptroller did not properly compute liability for mixed beverage gross receipts tax under Tax Code 111.008 and did not send notice of liability in compliance with federal and state due process requirements.

Status: Discovery in progress.

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***John P. Bellam, dba Showgirl v. Compt., et al.***

Cause Number: D-1-GN-08-002491      AG Case #: 082519125

Filed: 7/14/2008

Other Tax; Protest

Claim Amount      Reporting Period  
\$8,430.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin      OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.      Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Kairos of Texas v. Combs, et al.***

Cause Number: D-1-GN-11-002073      AG Case #: 113279863

Filed: 7/11/2011

Hotel Occupancy Tax; Declaratory Judgment

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.

OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff qualifies for an exemption under Section 156.102 as a religious, charitable, or educational organization.

Status: Notice of Nonsuit filed 04/16/12.

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***Karpod, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002521 AG Case #: 082520479

Filed: 7/14/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$67,580.25      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.

Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Manana Entertainment, Inc., dba v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003280 AG Case #: 082530288

Filed: 9/16/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$14,115.00      Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.

Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***MC/VC, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-003092 AG Case #: 082526187

Filed: 8/26/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$9,516.55	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Deegear III, James O.

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***North By East, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002624 AG Case #: 082520495

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$37,710.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Hopkins, Mark D. Hopkins & Williams, PLLC / Austin

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Ranger Fuels & Maintenance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN504104

AG Case #: 052245941

Filed: 11/15/2005

Fuels Tax; Refund

Claim Amount	Reporting Period
\$208,428.70	05/01/02 - 05/31/02 (Diesel)
	01/01/02 - 04/30/02 (Gasoline)
	03/01/02 - 04/30/02 (Diesel)
	05/01/02 - 05/31/02 (Gasoline)

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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Grissom, Donald H.                      Grissom & Thompson / Austin  
Thompson, William W.

Issue: Whether Plaintiff acquired a business and its assets by filing a sales tax application with the Comptroller. Whether such acquisition was a fraudulent transfer. Whether Plaintiff owes fuel taxes under successor liability.

Status: Case dismissed for want of prosecution. Bill of Review filed 08/24/11. Bill of Review granted. Jury trial previously set for 04/16/12 has been passed by agreement.

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***RPM Entertainment, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002622    AG Case #: 082520552

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$69,909.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.                      Martens, Todd & Leonard / Austin  
Seay, Michael B.

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief.

Status: Answer filed.



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***Savvy, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002520 AG Case #: 082520016

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$159,595.00	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin	OAG Taxation / Austin
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Opposing Counsel

Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***SSD Enterprises, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002301 AG Case #: 082518697

Filed: 7/1/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$64,485.00	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin	OAG Taxation / Austin
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Opposing Counsel

Pianelli, James V.	Houston
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***Texas Cabaret, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002490 AG Case #: 082520032

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$49,795.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Texas Richmond Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002438 AG Case #: 082519075

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$102,535.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Pianelli, James V.	Houston
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***The King Lounge, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-003793 AG Case #: 082536822

Filed: 10/20/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$138,875.00	Apr. - Sept. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Shells, T. Craig

Richardson

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***The Men's Club Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002439 AG Case #: 082519091

Filed: 7/10/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$60,890.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Pianelli, James V.

Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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## Closed Cases

### ***Air Liquide America, L.P. v. Compt., et al.***

Cause Number: D-1-GN-09-000193 AG Case #: 093101491

Filed: 1/21/2009

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$2,769,627.00      01/01/98 through 12/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to credit interest on the gross amount of credits rather than the net amount.

Status: Nonsuit Order entered 04/17/12.

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### ***BBB Trading Co. v. State of Texas, et al.***

Cause Number: C-1-CV-08-011446 AG Case #: 082539305

Filed: 10/28/2008

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$426,282.46      June 01, 2003 to Nov. 30, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Leeper, David P.

El Paso

Issue: Plaintiff claims that the Comptroller should grant insolvency relief. Plaintiff seeks injunctive relief, exemplary damages, and attorney's fees.

Status: Case transferred to the Bankruptcy & Collections Division.

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### ***Boat Town, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-001659 AG Case #: 103199972

Filed: 5/24/2010

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$78,915.79	01/01/2000 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Dolezal, Trey L.	Kasling, Hemphill, Dolezal & Atwell, L.L.P / Austin
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Guerra, Stephanie H.

Issue: Whether plaintiff's purchase of a business causes it to become a successor to the seller's tax liability. Plaintiff also seeks recovery of attorney's fees.

Status: Agreed Judgment entered 12/19/11.

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***Cashiola, James v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004629 AG Case #: 072434863

Filed: 12/15/2006

Sales Tax; Administrative Appeal

Claim Amount	Reporting Period
\$1,112,768.76	11/21/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG Taxation / Austin
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*Opposing Counsel*

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Grimsinger, William O.	Chamberlain, Hrdlicka, White, Williams & Martin / Houston
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Issue: Whether Plaintiff owes sales tax under successor liability. Plaintiff claims the Comptroller audited the acquired company for the same telecommunications consulting services and previously found no sales tax liability due. Plaintiff claims debts were created without his knowledge and the exercise of reasonable diligence would not have revealed the intention to create a tax debt.

Status: Notice of Nonsuit filed 11/21/11.

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***Coastal Industries, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004273 AG Case #: 083092296

Filed: 11/18/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$78,625.00	Oct. 1, 2000 - June 30, 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether mold remediation services are taxable. Whether work was done in a disaster area. Whether Comptroller rules are invalid. Whether equal protection and the commerce clause were violated. Whether Plaintiff detrimentally relied on Comptroller advice. Plaintiff also seeks declaratory relief.

Status: Agreed Judgment entered 02/06/12.

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***Dow Jones & Company, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001506 AG Case #: 113269112

Filed: 5/20/2011

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$97,206.96	April 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Leatherbury, Thomas S.	Vinson & Elkins L.L.P. / Dallas
Hobbs, Lisa Bowlin	Vinson & Elkins L.L.P. / Austin
Penny, James D.	Vinson & Elkins LLP / Houston
Rosenbaum, Glen A.	

Issue: Plaintiff alleges that §151.319, which provides an exemption for newspapers having a sales price of less than \$1.50, violates the Equal Protection Clause and the First Amendment of the U.S. Constitution. Plaintiff alleges that Comptroller's application of §151.319 violates the

rule promulgation requirements of the APA.

Status: Notice of Removal filed 06/23/11. Final Judgment entered 01/30/12, dismissing case with prejudice.

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***Frito-Lay, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004051 AG Case #: 082539784

Filed: 11/7/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$450,735.13	11/01/1999 thru 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Plaintiff claims the manufacturing exemption for tangible personal property used to develop and test new products and manufacturing processes.

Status: Bench trial on bifurcated issue conducted on 09/13/10. Second half of trial conducted 12/08/10. Judgment for Plaintiff signed 12/13/10. Motion for New Trial filed 01/11/11; denied 02/24/11.

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***Future A's Limited Liability v. Combs, et al.***

Cause Number: D-1-GN-09-003565 AG Case #: 093157964

Filed: 10/15/2009

Sales and use Tax; Redetermination

Claim Amount	Reporting Period
\$134,706.00	12/31/2004 through 03/31/2006

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Mastrangelo, John	Houston
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Issue: Whether the audit procedures applied in the audit were appropriate.

Status: Agreed Judgment entered 03/07/12.

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***GMRI Texas, LP v. Combs***

Cause Number: D-1-GN-11-003155 AG Case #: 113296768

Filed: 10/13/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$110,000.00	10/01/04 through 06/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Ryan, Kory L.	Ryan Law Firm, LLP / Austin
Meisel, Seth E.	

Issue: Whether Plaintiff is entitled to interest on the gross amount of credit in a managed audit.

Status: Notice of Nonsuit filed 04/03/12.

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***GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000649 AG Case #: 062295480

Filed: 2/23/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,193,519.44	10/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether tangible personal property used or consumed in providing telecommunications is exempt from sales tax. Whether electricity is exempt because of use in a manufacturing area.

Status: Notice of Nonsuit filed 11/11/11.

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***GTE Southwest, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000058 AG Case #: 072433519

Filed: 1/8/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$260,313.96	01/01/96 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether telecommunication signals constitute tangible personal property exempt from tax under the manufacturing and processing exemption. Whether equipment used in or during the processing of telecommunication signals causes a physical change to the signals. Whether the processing of telecommunication signals, which Plaintiff claims are tangible personal property, should be treated as a sale.

Status: Notice of Nonsuit filed 10/11/11.

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***Habib Surani, H.S.N. Enterprises, Inc. v. Tx. Comptroller of Public Accounts***

Cause Number: D-1-GN-11-001941    AG Case #: 113278451    Filed: 6/29/2011

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
	07/01/08 through 12/31/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Surani (Pro-Se), Habib

Issue: Plaintiff alleges improper collection actions.

Status: Plea to the Jurisdiction granted and case dismissed 04/12/12.

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***Lee Construction and Maintenance Company v. Rylander, et al.***

Cause Number: 99-01091    AG Case #: 991112160    Filed: 1/29/1999

Sales Tax; Protest

Claim Amount	Reporting Period
\$31,830.47	01/01/92 - 12/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Trickey, Timothy M.	The Trickey Law Firm / Austin
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Issue: Various issues, including credits for bad debts, tax paid, tax on new construction and tax paid in Louisiana, resale exemptions and waiver of penalty and interest.

Status: Motion to Dismiss for Want of Prosecution granted 11/08/11.

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***Liberty Vending Services, Inc. v. Strayhorn, et al.***

Cause Number: GN502836

AG Case #: 052198108

Filed: 8/11/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$9,000.00	10/01/98 - 06/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens, Todd & Leonard / Austin
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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether Plaintiff is liable for sales and use tax on sales of food items, soft drinks and candy sold through contracted vending machines located at exempt locations. Whether the Comptroller improperly categorized certain food item purchases as taxable. Plaintiff seeks injunctive relief and release of all state tax liens. Plaintiff claims violation of constitutional rights and equal protection and equal taxation. Plaintiff also claims violation of the Commerce Clause and the Supremacy Clause.

Status: Case Dismissed for Want of Prosecution on 05/28/08.

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***Mirage Real Estate, Inc., et al. v. Richard Durbin, et al.***

Cause Number: 92-16485

AG Case #: 92190294

Filed: 12/3/1992

Alcoholic Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$0.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Aterno, Tony	OAG Taxation / Austin
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*Opposing Counsel*

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Mattox, Jim	Attorney at Law / Paris
Lasley, Lowell	
Mosher, Michael D.	

Issue: Whether the TABC and Comptroller were allowed to use inventory depletions analysis to determine amount of gross receipts tax owed. Plaintiffs seek class certification.

Status: Agreed Motion to Dismiss signed 11/18/11.

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***Price & Company v. Combs, et al.***

Cause Number: D-1-GN-09-002439 AG Case #: 093144020

Filed: 7/30/2009

Cigarette and Tobacco Tax; Protest

Claim Amount	Reporting Period
\$150,687.46	01/01/2003 through 08/31/2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough, L.L.P. / Austin
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Issue: Whether the Comptroller improperly assessed tax on cigarettes that were taxed and sold in Louisiana.

Status: Notice of Nonsuit filed 03/29/12.

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***Ranger Fuels and Maintenance, LLC v. Combs, et al.***

Cause Number: D-1-GN-11-002564 AG Case #: 113286090

Filed: 8/24/2011

Fuels Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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Grissom, Donald H.                      Grissom & Thompson / Austin  
Thompson, William W.

Issue: Plaintiff seeks to vacate dismissal for want of prosecution in cause number GN-504104.

Status: Bill of Review granted 11/07/11.

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***Senior Care Consultants, Inc. v. Prevail Systems, Inc., et al.***

Cause Number: DC-11-04352                      AG Case #: 113271225                      Filed: 5/2/2011

Sales and use Tax; Declaratory Judgment

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Cook, Jeffrey                      Sullivan & Cook / Dallas

Issue: The Comptroller is joined by the Defendant, Prevail Systems, Inc. and sued under the Uniform Declaratory Judgment Act. Defendant seeks a declaration of the sales tax responsibilities between Plaintiff and Defendant. Attorney fees have not been pled for against the Comptroller.

Status: Order of Nonsuit signed 11/11/11.

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***Taco Bell Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-003637                      AG Case #: 093159101                      Filed: 10/21/2009

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,273,294.00	1999 through 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.

Duggins Wren Mann & Romero, LLP / Austin

Issue: Whether the Taxpayer, a foreign corporation, conducted business within Texas during the audit period. Whether the activities of a franchisee, performed on behalf of the Taxpayer, would be sufficient to establish a physical presence.

Status: Agreed Judgment entered 12/02/11.

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***United Scaffolding, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002270 AG Case #: 062375514

Filed: 6/21/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$897,633.51	10/01/97 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Ohlenforst, Cynthia M.	Hughes & Luce / Dallas
Villa, Richard D.	Hughes & Luce / Austin

Issue: Whether scaffolding services provided by Plaintiff are taxable rentals of tangible personal property in regard to certain lump sum contracts, or exempt as non-taxable services. Plaintiff also seeks attorneys' fees.

Status: Order of Nonsuit entered 01/25/12.

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***Vinson Oil Distribution v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003262 AG Case #: 062405956

Filed: 8/31/2006

Fuels Tax; Protest

Claim Amount	Reporting Period
\$40,711.92	(Diesel)
\$1,861.38	(Gasoline)
	12/01-31/01
	12/01-31/02
	12/01-31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to a refund of gasoline tax and diesel fuel tax based on bad debt deductions resulting from proprietary card usage. Plaintiff claims violation of due process, equal protection and equal and uniform taxation.

Status: Notice of Non-suit filed 01/20/12.

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